

Senate proposal of amendment

H. 86

An act relating to Vermont's adoption of the Audiology and Speech-Language Pathology Interstate Compact

The Senate proposes to the House to amend the bill by adding a new Sec. 7 to read as follows:

Sec. 7. 1 V.S.A. chapter 5, subchapter 5 is amended to read:

Subchapter 5. Interpreters for Judicial, Administrative, and Legislative Findings

§ 331. DEFINITIONS

As used in the subchapter:

(1) “Person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind” means any person who has ~~such~~ difficulty hearing, even with amplification, to the extent that he or she the person cannot rely on hearing for communication.

(2) “Proceeding” means any judicial proceeding, contested case under 3 V.S.A. chapter 25, or other hearing before an administrative agency not included under 3 V.S.A. chapter 25.

(3) “Qualified interpreter” means an interpreter for a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind who meets standards of competency established by the national or Vermont Registry of Interpreters for the Deaf as amended, ~~by rule, by the Vermont Commission of the Deaf and Hard of Hearing.~~

§ 332. RIGHT TO INTERPRETER; COMMUNICATION ACCESS REALTIME TRANSLATION (CART) SERVICES; ASSISTIVE LISTENING EQUIPMENT

(a) Any person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind who is a party or witness in any proceeding shall be entitled to be provided with a qualified interpreter or CART services for the duration of the person's participation in the proceeding.

(b) Any person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind shall be entitled to be provided with a qualified interpreter or CART services upon five working days' notice that the person has reasonable need to do any of the following:

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(c) If a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind is unable to use or understand sign language, the presiding officer

or State board or agency or State legislative official shall, upon five working days' notice, make available appropriate assistive listening equipment for use during the proceeding or activity.

§ 333. APPOINTMENT OF INTERPRETER

(a) The presiding officer in a proceeding shall appoint an interpreter after making a preliminary determination that the interpreter is able to:

(1) readily communicate with the person who is ~~deaf or hard of hearing,~~ Deaf, Hard of Hearing, or DeafBlind;

(2) accurately interpret statements or communications from the person who is ~~deaf or hard of hearing,~~ Deaf, Hard of Hearing, or DeafBlind; and to

(3) interpret the proceedings to the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind.

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§ 336. RULES; INFORMATION; LIST OF INTERPRETERS CONTRACT SERVICES

(a) ~~The Vermont Commission of the Deaf and Hard of Hearing shall, by rule, establish factors to be considered by the presiding officer under section 333 of this title before appointing an interpreter who is not a qualified interpreter. Such factors shall encourage the widest availability of interpreters in Vermont while at the same time ensuring~~ State of Vermont shall maintain contracts to operate CART services and a statewide sign language interpreter referral service to provide services to a person who has a right to an interpreter or CART services under section 332 of this subchapter. The contract shall require that the an interpreter providing services through the sign language interpreter referral service:

(1) is able to communicate readily with the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind;

(2) is able to interpret accurately statements or communications by the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind;

(3) is able to interpret the proceedings to the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind;

(4) ~~shall~~ maintain confidentiality;

(5) ~~shall~~ be impartial with respect to the outcome of the proceeding;

(6) ~~shall~~ does not exert any influence over the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind; and

(7) ~~shall~~ does not accept assignments the interpreter does not feel competent to handle.

(b) ~~Rules established by the Vermont Commission of the Deaf and Hard of Hearing pursuant to subdivision 331(3) of this title amending the standards of competency established by the national or Vermont Registry of the Deaf shall be limited to the factors set forth in subsection (a) of this section. [Repealed.]~~

(c) ~~The Vermont Commission of the Deaf and Hard of Hearing shall prepare an explanation of the provisions of this subchapter which shall be distributed to all State agencies and courts. [Repealed.]~~

(d) ~~The Department of Disabilities, Aging, and Independent Living shall maintain a list of qualified interpreters in Vermont and, where such information is available, in surrounding states. The list shall be distributed to State of Vermont shall maintain access to qualified interpreters in Vermont and CART services for all State agencies and courts through the statewide contracts maintained by the State pursuant to subsection (a) of this section.~~

§ 337. REVIEW

(a) A decision, order, or judgment of a court or administrative agency may be reversed on appeal if the court or agency finds that a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind who was a party or a witness in the proceeding was deprived of an opportunity to communicate effectively, and that the deprivation was prejudicial.

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§ 338. ADMISSIONS; CONFESSIONS

(a) An admission or confession by a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind made to a law enforcement officer or any other person having a prosecutorial function may only be used against the person in a criminal proceeding if:

(1) ~~The~~ the admission or confession was made knowingly, voluntarily, and intelligently and is not subject to alternative interpretations resulting from the person's habits and patterns of communication; and

(2) ~~The~~ the admission or confession, if made during a custodial interrogation, was made after reasonable steps were taken, including the appointment of a qualified interpreter, to ensure that the defendant understood ~~his or her~~ the defendant's constitutional rights.

(b) The provisions of subsection (a) of this section supplement the constitutional rights of the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind.

§ 339. COMMUNICATIONS MADE TO INTERPRETERS; PROHIBITION ON DISCLOSURE

(a) An interpreter, whether or not the interpreter is a qualified interpreter, shall not disclose or testify to:

(1) a communication made by a person to an interpreter acting in ~~his or her~~ the capacity as of an interpreter for a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind or a person with limited English proficiency; or

(2) any information obtained by the interpreter while acting in ~~his or her~~ the capacity as of an interpreter for a person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind or a person with limited English proficiency.

(b) There is no prohibition on disclosure under this section if the services of the interpreter were sought or obtained to enable or aid anyone to commit or plan to commit what the person who is ~~deaf or hard of hearing~~ Deaf, Hard of Hearing, or DeafBlind or the person with limited English proficiency knew or reasonably should have known to be a crime or fraud.

* * *

(d) As used in this section, “person with limited English proficiency” means a person who does not speak English as ~~his or her~~ the person’s primary language and who has a limited ability to read, write, speak, or understand English.

And by renumbering the remaining section to be numerically correct.