

2013 -- H 5830

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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, a state and municipal court-ordered or court-  
10 provided alternative dispute resolution, mediation, arbitration, diversion/intervention program or  
11 treatment; and in an administrative, commission, or agency hearing; pursuant to chapter 18 of this  
12 title, where a party or a witness is a person who is deaf, ~~or~~ hard of hearing, or deaf-blind or a  
13 juvenile whose parent or parents are deaf, hard of hearing, or deaf-blind is brought before a court  
14 for any reason, he or she shall have the proceedings ~~of the trial interpreted~~ accessible to him or  
15 her in a language that he or she can understand by a ~~qualified interpreter~~ sign language  
16 interpreter/transliterator, or a CART provider appointed by the court. In any case where ~~an~~  
17 ~~interpreter~~ a sign language interpreter/transliterator, or a CART provider is required to be  
18 appointed by the court under this section, the court shall not commence proceedings until the  
19 appointed ~~interpreter~~ sign language interpreter/transliterator, or a CART provider is in court in a

1 position not exceeding ten feet (10') from and in full view of the person who is deaf, ~~or~~ hard of  
2 hearing, or deaf-blind ~~or hard-of-hearing~~. The ~~interpreter~~ sign language interpreter/transliterator,  
3 or a CART provider appointed under the terms of the section shall be required to take an oath that  
4 he or she will ~~make a true interpretation to~~ make a legally equivalent, linguistically true  
5 interpretation, transliteration, or transcription for the person who is deaf, ~~or~~ hard of hearing, or  
6 deaf-blind of all the proceedings or hearings of the case or claim in a language that he or she  
7 understands; and will ~~repeat the answer~~ orally transfer the meaning of the answer and any other  
8 statements of the person who is deaf, ~~or~~ hard of hearing, or deaf-blind to questions to counsel, or  
9 the court, ~~or jury~~ in the English language, ~~in his or her best skill and judgment~~ with exactitude,  
10 while accurately reflecting the form and content of the linguistic and paralinguistic elements of  
11 the speaker's discourse.

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

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

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

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

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

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

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

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

1 interpreter/transliterators for the deaf, hard of hearing, and deaf-blind shall be allowed, in giving  
2 testimony to disclose any confidential communication, properly entrusted to him or her in his or  
3 her professional capacity, and necessary and proper to enable him or her to discharge the  
4 functions of his or her office in the usual course of practice or discipline, without the consent of  
5 the person making the communication.

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

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

16 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO COURTS AND CIVIL PROCEDURE - COURTS

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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 upon passage.

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