

HOUSE BILL 1228

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2000 Regular Session
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CF 0lr2475

By: **Delegates R. Baker, Griffith, Howard, Swain, D. Davis, Healey, Marriott, Frush, Menes, Grosfeld, Kagan, Hubbard, Barve, Gladden, Shriver, Giannetti, Goldwater, Moe, Valderrama, Kirk, Barkley, Finifter, Zirkin, Cole, Bobo, McHale, Paige, Walkup, Clagett, Sophocleus, Dembrow, Turner, A. Jones, Pendergrass, Branch, Phillips, Dobson, Brown, McIntosh, Pitkin, Glassman, Sher, Owings, Franchot, Montague, Oaks, Dypski, Rosenberg, Rosso, Bronrott, Proctor, Mandel, DeCarlo, Benson, C. Davis, Harrison, Patterson, Hill, and Hixson**

Introduced and read first time: February 11, 2000
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **State Government - Access to Services and the Justice System - Language**
3 **Barriers**

4 FOR the purpose of stating the intent of the General Assembly that equal access to
5 the State's justice system and to government services should not be impaired by
6 the inability to speak and understand English; requiring all documents
7 distributed to the public by State agencies, courts, and entities receiving State
8 funds to be translated into Spanish; prohibiting the utilization of State funds for
9 the purposes of sending to or receiving from the Immigration and
10 Naturalization Service information regarding the citizenship status or
11 immigration status of any individual; requiring the courts to appoint more than
12 one interpreter under certain circumstances; requiring the Administrative
13 Office of the Courts to provide certified language interpreters to certain persons;
14 requiring the Administrative Office of the Courts to establish and implement
15 minimum training and certification standards for court interpreters and
16 maintain a master registry of certified interpreters; prohibiting a State
17 department, agency, or program from denying public services or discriminating
18 against a person based on language ability; requiring the Human Relations
19 Commission to adopt regulations setting forth certain policies and procedures
20 under certain circumstances; altering the duties of the Director of the Office of
21 Minority Affairs; making stylistic changes; making provisions of this Act
22 severable; and generally relating to language barriers to access the justice
23 system and to government services.

24 BY repealing and reenacting, with amendments,
25 Article 27 - Crimes and Punishments
26 Section 623A
27 Annotated Code of Maryland

1 (1996 Replacement Volume and 1999 Supplement)
2 BY adding to
3 Article 41 - Governor - Executive and Administrative Departments
4 Section 20-201 through 20-203, inclusive, to be under the new subtitle "Subtitle
5 2. Access to Services and the Justice System"
6 Annotated Code of Maryland
7 (1997 Replacement Volume and 1999 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article 49B - Human Relations Commission
10 Section 5
11 Annotated Code of Maryland
12 (1998 Replacement Volume and 1999 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 9-114
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 1999 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - State Government
20 Section 9-304
21 Annotated Code of Maryland
22 (1999 Replacement Volume)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article 27 - Crimes and Punishments**

26 623A.

27 (a) (1) In any criminal proceeding in any court in this State there shall be
28 appointed a qualified interpreter to assist the defendant throughout the proceedings
29 when the defendant:

30 (i) Is deaf or a deaf-mute;

31 (ii) Because of hearing, speaking, or other impairment cannot
32 readily understand or communicate the English language and is incapable of
33 understanding any charge made against the defendant or assisting the presentation
34 of the defense; or

1 (iii) Cannot readily understand or communicate the English
2 language and is incapable of understanding any charge made against the defendant
3 or assisting the presentation of the defense.

4 (2) The appointment required under paragraph (1) of this subsection
5 shall also be made for parties subject to possible commitment in insanity or mental
6 health commitment proceedings.

7 (3) THE COURT SHALL APPOINT MORE THAN ONE INTERPRETER WHEN
8 NECESSARY TO PROTECT CLIENT CONFIDENTIALITY OR ENSURE DUE PROCESS OF
9 LAW.

10 (4) COURTS MAY ONLY APPOINT LANGUAGE INTERPRETERS WHO
11 SATISFY THE MINIMUM CERTIFICATION STANDARDS ESTABLISHED BY THE
12 ADMINISTRATIVE OFFICE OF THE COURTS IN SUBSECTION (C) OF THIS SECTION.

13 (b) Any interpreter appointed pursuant to this section shall receive from the
14 court compensation for [his] THE INTERPRETER'S services in an amount equal to that
15 provided for interpreters of languages other than English and reimbursement for
16 actual and necessary expenses incurred in the performance of [his] THE
17 INTERPRETER'S services.

18 (C) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ESTABLISH AND
19 IMPLEMENT MINIMUM TRAINING AND CERTIFICATION STANDARDS FOR COURT
20 INTERPRETERS AND MAINTAIN A MASTER REGISTRY OF CERTIFIED INTERPRETERS.

21 (D) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE
22 SUFFICIENT CERTIFIED LANGUAGE INTERPRETERS TO THE STATE COURTS, OFFICES
23 OF THE PUBLIC DEFENDER, OFFICES OF THE STATE'S ATTORNEY, AND LAW
24 ENFORCEMENT AGENCIES AS NEEDED.

25 (E) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ENSURE THAT ALL
26 COURTS IN MARYLAND TRANSLATE DOCUMENTS INTO LANGUAGES OTHER THAN
27 ENGLISH AS NEEDED TO ENSURE DUE PROCESS OF LAW, INCLUDING:

28 (1) TRANSLATION AND ISSUANCE OF ALL SUBPOENAS, SUMMONS, AND
29 WRITS IN BOTH SPANISH AND ENGLISH; AND

30 (2) AVAILABILITY OF IMPORTANT COURT FORMS AND INSTRUCTIONAL
31 MATERIALS IN SPANISH.

Article 41 - Governor - Executive and Administrative Departments

SUBTITLE 2. ACCESS TO SERVICES AND THE JUSTICE SYSTEM.

20-201.

THE GENERAL ASSEMBLY FINDS THAT:

(1) THE INABILITY TO SPEAK AND UNDERSTAND THE ENGLISH LANGUAGE IS A BARRIER THAT PREVENTS ACCESS TO THE STATE'S JUSTICE SYSTEM AND THE STATE SHOULD TAKE ACTIONS NECESSARY TO REMOVE THAT BARRIER; AND

(2) COURTS AND GOVERNMENTAL DEPARTMENTS AND AGENCIES SHOULD ESTABLISH PROCEDURES TO PROVIDE EQUAL ACCESS TO SERVICES REGARDLESS OF LANGUAGE CAPACITY.

20-202.

THE DEPARTMENTS AND AGENCIES OF STATE GOVERNMENT, THE COURTS, AND ALL ENTITIES RECEIVING STATE FUNDS SHALL TAKE THOSE ACTIONS NECESSARY TO ENSURE THAT A PERSON'S ABILITY TO UNDERSTAND THE DOCUMENTS, NOTICES, FORMS, AND OTHER MATERIALS DISTRIBUTED TO THE PUBLIC BY THEM IS NOT IMPAIRED BY THE PERSON'S INABILITY TO SPEAK AND UNDERSTAND THE ENGLISH LANGUAGE.

20-203.

STATE FUNDS MAY NOT BE UTILIZED FOR THE PURPOSES OF SENDING TO OR RECEIVING FROM THE IMMIGRATION AND NATURALIZATION SERVICE INFORMATION REGARDING THE CITIZENSHIP STATUS OR IMMIGRATION STATUS OF ANY INDIVIDUAL.

Article 49B - Human Relations Commission

5.

(a) It is unlawful for an owner or operator of a place of public accommodation or an agent or employee of the owner or operator, because of the race, creed, sex, age, color, national origin, marital status, or disability of any person, to refuse, withhold from, or deny to such person any of the accommodations, advantages, facilities and privileges of such place of public accommodation.

(b) Nothing in this section shall be construed or interpreted to prohibit the proprietor of any establishment, or the employees of the establishment, from the right to deny service to any person for failure to conform to the usual and regular requirements, standards and regulations for the establishment so long as the denial is not based upon discrimination on the grounds of race, sex, age, color, creed, national origin, marital status, or disability.

1 (c) For the purpose of this subtitle, a place of public accommodation means:

2 (1) Any inn, hotel, motel, or other establishment which provides lodging
3 to transient guests, other than an establishment located within a building which
4 contains not more than five rooms for rent or hire and which is actually occupied by
5 the proprietor of such establishment as the proprietor's residence;

6 (2) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain,
7 or other facility principally engaged in selling food or alcoholic beverages for
8 consumption on or off the premises, including, but not limited to, any such facility
9 located on the premises of any retail establishment; or any gasoline station;

10 (3) Any motion picture house, theater, concert hall, sports arena,
11 stadium or other place of exhibition or entertainment; and

12 (4) Any establishment which:

13 (i) 1. Is physically located within the premises of any
14 establishment otherwise covered by this section; or

15 2. Within the premises of which is physically located any
16 establishment otherwise covered by this section; and

17 (ii) Which holds itself out as serving patrons of such covered
18 establishment.

19 (d) (1) For the purposes of this section, a "place of public accommodation"
20 also means any establishment that:

21 (i) Is operated by a public or private entity;

22 (ii) Is not included in subsection (c) of this section; and

23 (iii) Is a retail establishment, whether offering goods, services,
24 entertainment, recreation, or transportation.

25 (2) This section does not require structural changes, modifications, or
26 additions to buildings or vehicles, except as required by this paragraph or as
27 otherwise required by law. In addition, any building constructed, modified or altered
28 in compliance with, or pursuant to a waiver from, the Maryland Building Code for the
29 Handicapped under Article 83B, § 6-102 of the Code shall not be subject to this
30 section.

31 (i) When structural changes, modifications, or the provision of
32 special equipment is necessary to accommodate an individual with a disability, the
33 accommodation shall be "reasonable".

34 (ii) 1. "Reasonable accommodation" for the purposes of this
35 paragraph means to make a public accommodation suitable for access, use, and
36 patronage by a person without danger to the person's health or safety and without

1 [(g)] (H) (1) If the Commission finds that a respondent has engaged in an
2 unlawful practice under this section, in addition to other relief authorized, the
3 Commission may seek an order assessing a civil penalty against the respondent:

4 (i) If the respondent has not been adjudged to have committed any
5 prior discriminatory practice, in an amount not exceeding \$500;

6 (ii) If the respondent has been adjudged to have committed 1 other
7 discriminatory practice during the 5-year period ending on the date of the filing of
8 this charge, in an amount not exceeding \$1,000; and

9 (iii) If the respondent has been adjudged to have committed 2 or
10 more discriminatory practices during the 7-year period ending on the date of the
11 filing of this charge, in an amount not exceeding \$2,500.

12 (2) If the acts constituting the discriminatory practice are committed by
13 the same natural person who has been previously adjudged to have committed
14 discriminatory practices, then the civil penalties set forth in [subsections (g)(1)(ii)
15 and (iii)] PARAGRAPH (1)(II) AND (III) OF THIS SUBSECTION may be imposed without
16 regard to the period of time within which any subsequent discriminatory practice
17 occurred.

18 (3) All civil penalties shall be paid to the General Fund of the State of
19 Maryland.

20 **Article - Courts and Judicial Proceedings**

21 9-114.

22 (a) If a party or witness is deaf or cannot readily understand or communicate
23 the spoken English language, any party may apply to the court for the appointment of
24 a qualified interpreter to assist that person. Upon the application of any party or
25 witness who is deaf the court shall appoint a qualified interpreter to assist that
26 person. The court shall maintain a directory of interpreters for manual
27 communication and/or oral interpretation to assist deaf persons.

28 (B) THE COURT SHALL APPOINT MORE THAN ONE INTERPRETER WHEN
29 NECESSARY TO PROTECT CLIENT CONFIDENTIALITY OR ENSURE DUE PROCESS OF
30 LAW.

31 (C) COURTS MAY ONLY APPOINT LANGUAGE INTERPRETERS WHO SATISFY
32 THE MINIMUM CERTIFICATION STANDARDS ESTABLISHED BY THE ADMINISTRATIVE
33 OFFICE OF THE COURTS IN SUBSECTION (D) OF THIS SECTION.

34 (D) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ESTABLISH AND
35 IMPLEMENT MINIMUM TRAINING AND CERTIFICATION STANDARDS FOR COURT
36 INTERPRETERS AND MAINTAIN A MASTER REGISTRY OF CERTIFIED INTERPRETERS.

37 [(b)] (E) Any interpreter appointed pursuant to this section shall be allowed
38 compensation the court deems reasonable. It is discretionary with the court, in

1 accordance with the provisions of the federal Americans with Disabilities Act, to tax,
2 as part of the costs of the case, amounts paid to an interpreter for services and
3 expenses. Otherwise the amount shall be paid by the county where the proceedings
4 were initiated.

5 (F) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ENSURE THAT ALL
6 COURTS IN MARYLAND TRANSLATE DOCUMENTS INTO LANGUAGES OTHER THAN
7 ENGLISH AS NEEDED TO ENSURE DUE PROCESS OF LAW, INCLUDING:

8 (1) TRANSLATION AND ISSUANCE OF ALL SUBPOENAS, SUMMONS, AND
9 WRITS IN BOTH SPANISH AND ENGLISH; AND

10 (2) AVAILABILITY OF IMPORTANT COURT FORMS AND INSTRUCTIONAL
11 MATERIALS IN SPANISH.

12 **Article - State Government**

13 9-304.

14 Subject to the limitations of any law that governs the activities of other units of
15 the Executive Branch of the State government, the Director shall:

16 (1) advise the Governor on:

17 (i) the activities of the State government that are intended to
18 promote the employment of minority AND BILINGUAL persons in the State; and

19 (ii) each other matter that affects the rights and interests of
20 minority persons and the communities in which they live; and

21 (2) as authorized by the Governor:

22 (i) provide help to minority persons and the communities in which
23 they live;

24 (ii) represent the Governor in any matter that relates to minority
25 persons or generally to the promotion of equality among the people of the State; and

26 (iii) perform any other responsibility that the Governor assigns.

27 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
28 Act or the application thereof to any person or circumstance is held invalid for any
29 reason in a court of competent jurisdiction, the invalidity does not affect other
30 provisions or any other application of this Act which can be given effect without the
31 invalid provision or application, and for this purpose the provisions of this Act are
32 declared severable.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2000.