

SENATE BILL 741

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2000 Regular Session
0lr2475
CF 0lr1207

By: **Senators Ruben, Frosh, Lawlah, Sfikas, Pinsky, Mitchell, Exum,
McFadden, Jimeno, Currie, Dorman, Forehand, and Dyson**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

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
28 (1996 Replacement Volume and 1999 Supplement)

29 BY adding to
30 Article 41 - Governor - Executive and Administrative Departments
31 Section 20-201 through 20-203, inclusive, to be under the new subtitle "Subtitle

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

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

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

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

15 (D) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE
16 SUFFICIENT CERTIFIED LANGUAGE INTERPRETERS TO THE STATE COURTS, OFFICES
17 OF THE PUBLIC DEFENDER, OFFICES OF THE STATE'S ATTORNEY, AND LAW
18 ENFORCEMENT AGENCIES AS NEEDED.

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

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

24 (2) AVAILABILITY OF IMPORTANT COURT FORMS AND INSTRUCTIONAL
25 MATERIALS IN SPANISH.

26 **Article 41 - Governor - Executive and Administrative Departments**

27 SUBTITLE 2. ACCESS TO SERVICES AND THE JUSTICE SYSTEM.

28 20-201.

29 THE GENERAL ASSEMBLY FINDS THAT:

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

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

1 20-202.

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

8 20-203.

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

13 **Article 49B - Human Relations Commission**

14 5.

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

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

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

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

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

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

37 (4) Any establishment which:

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

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

5 (ii) Which holds itself out as serving patrons of such covered
6 establishment.

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

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

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

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

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

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

22 (ii) 1. "Reasonable accommodation" for the purposes of this
23 paragraph means to make a public accommodation suitable for access, use, and
24 patronage by a person without danger to the person's health or safety and without
25 undue hardship or expense to a business or other activity making such an
26 accommodation.

27 2. With respect to a private motor coach transportation
28 carrier, for the purposes of this subsection, "reasonable accommodation" means that
29 any requirement to satisfy the provisions of this article will not exceed a maximum
30 expense of \$2,500 per operating vehicle. However, beginning January 1, 1990, at least
31 10 percent of the total operating fleet of any private motor coach transportation
32 carrier doing business in the State shall comply with the provisions of this article.

33 3. The Human Relations Commission shall make a
34 determination in the first instance whether an accommodation is "reasonable". In
35 making this determination for buildings, the Human Relations Commission may
36 consult with the Department of Housing and Community Development and such
37 others as may be useful as to the cost and feasibility of any structural changes,
38 modifications, additions or the provision of special equipment.

1 (e) The provisions of this section shall not apply to a private club or other
2 establishment not in fact open to the public, except to the extent that the facilities of
3 such establishments are made available to the customers or patrons of an
4 establishment within the scope of this section.

5 (f) With respect to sex discrimination, this section may not be construed to
6 apply to those facilities which are uniquely private and personal in nature, designed
7 to accommodate only a particular sex.

8 (G) (1) A STATE DEPARTMENT, AGENCY, OR PROGRAM MAY NOT DENY
9 PUBLIC SERVICES OR DISCRIMINATE AGAINST A PERSON BASED ON LANGUAGE
10 ABILITY.

11 (2) THE HUMAN RELATIONS COMMISSION SHALL ADOPT REGULATIONS
12 SETTING FORTH THE POLICIES AND PROCEDURES THAT STATE DEPARTMENTS,
13 AGENCIES, AND PROGRAMS MUST FOLLOW WHERE A SIGNIFICANT NUMBER OR
14 PROPORTION OF THE POPULATION ELIGIBLE TO BE SERVED BY THE AGENCY,
15 DEPARTMENT, OR PROGRAM NEEDS SERVICES OR INFORMATION IN A LANGUAGE
16 OTHER THAN ENGLISH (INCLUDING SPANISH AND ANY OTHER LANGUAGE SPOKEN
17 BY MORE THAN 1% OF MONOLINGUAL RESIDENTS OF THE STATE) IN ORDER TO BE
18 EFFECTIVELY INFORMED OF OR PARTICIPATE IN THE PROGRAMS AND SERVICES.

19 (3) THIS SUBSECTION APPLIES TO:

20 (I) WRITTEN MATERIAL WHICH IS ORDINARILY DISTRIBUTED TO
21 THE PUBLIC (INCLUDING APPLICATION AND COMPLAINT FORMS,
22 EDUCATIONAL/INFORMATIONAL MATERIALS AND NOTICES);

23 (II) THE PROVISION OF PROGRAMS AND SERVICES; AND

24 (III) ADMINISTRATIVE PROCEEDINGS (INCLUDING INTAKE
25 INTERVIEWS, INVESTIGATIONS, AND HEARINGS).

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

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

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

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

37 (2) If the acts constituting the discriminatory practice are committed by
38 the same natural person who has been previously adjudged to have committed

1 discriminatory practices, then the civil penalties set forth in [subsections (g)(1)(ii)
2 and (iii)] PARAGRAPH (1)(II) AND (III) OF THIS SUBSECTION may be imposed without
3 regard to the period of time within which any subsequent discriminatory practice
4 occurred.

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

7 **Article - Courts and Judicial Proceedings**

8 9-114.

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

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

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

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

24 [(b)] (E) Any interpreter appointed pursuant to this section shall be allowed
25 compensation the court deems reasonable. It is discretionary with the court, in
26 accordance with the provisions of the federal Americans with Disabilities Act, to tax,
27 as part of the costs of the case, amounts paid to an interpreter for services and
28 expenses. Otherwise the amount shall be paid by the county where the proceedings
29 were initiated.

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

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

35 (2) AVAILABILITY OF IMPORTANT COURT FORMS AND INSTRUCTIONAL
36 MATERIALS IN SPANISH.

1

Article - State Government

2 9-304.

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

5 (1) advise the Governor on:

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

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

10 (2) as authorized by the Governor:

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

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

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

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

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