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Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2001

CHAPTER_____

1 AN ACT concerning

2 **Courts - Access to the Justice System - Language Barriers**

3 FOR the purpose of ~~stating the intent of the General Assembly that access to the~~
4 ~~State's justice system should not be impaired by the inability to speak or~~
5 ~~understand English;~~ requiring the courts to appoint more than one interpreter
6 in a criminal or juvenile delinquency proceeding under certain circumstances;
7 requiring the appointment of an interpreter in a juvenile delinquency
8 proceeding under certain circumstances; requiring the Chief Judge of the Court
9 of Appeals, in conjunction with the administrative judges of the circuit courts,
10 the Standing Committee on Rules of Practice and Procedure, and the Chief
11 Judge of the District Court, to prepare a certain report and develop a certain
12 plan for the utilization of certain interpreters and for the translation of certain
13 forms and documents; requiring courts to appoint interpreters who have certain
14 certifications; requiring courts to translate certain documents into any language
15 spoken by a certain percentage of either the State population or the population
16 within the geographic jurisdiction of a courthouse; requiring a certain report to
17 be submitted to the General Assembly on or before a certain date; and generally

1 relating to access to the justice system by persons with language barriers.

2 BY repealing and reenacting, with amendments,

3 Article - Criminal Procedure

4 Section 1-202

5 Annotated Code of Maryland

6 (As enacted by Chapter ____ (S.B. 1) of the Acts of the General Assembly of 2001)

7 ~~BY repealing and reenacting, with amendments,~~

8 ~~Article - Courts and Judicial Proceedings~~

9 ~~Section 9-114~~

10 ~~Annotated Code of Maryland~~

11 ~~(1998 Replacement Volume and 2000 Supplement)~~

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

14 **Article - Criminal Procedure**

15 1-202.

16 (A) ~~THE GENERAL ASSEMBLY FINDS THAT:~~

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

21 ~~(2) COURTS SHOULD ESTABLISH PROCEDURES TO PROVIDE EQUAL~~
22 ~~ACCESS TO SERVICES REGARDLESS OF LANGUAGE CAPACITY.~~

23 ~~{(a)}~~ ~~(B)~~ The court shall appoint a qualified interpreter to help a defendant OR
24 RESPONDENT in a criminal OR JUVENILE DELINQUENCY proceeding throughout any
25 criminal OR JUVENILE DELINQUENCY proceeding when the defendant OR
26 RESPONDENT is:

27 (1) deaf; or

28 (2) cannot readily understand or communicate the English language and
29 cannot understand a charge made against the defendant OR RESPONDENT or help
30 present the defense.

31 ~~(C)~~ (B) THE APPOINTMENT REQUIRED UNDER SUBSECTION ~~(B)~~ (A) OF THIS
32 SECTION SHALL INCLUDE MORE THAN ONE INTERPRETER WHEN NECESSARY TO
33 PROTECT CLIENT CONFIDENTIALITY, ~~ENSURE DUE PROCESS OF LAW, OR ASSIST IN~~
34 ~~THE PRESENTATION OF THE DEFENSE.~~

1 ~~(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY IN ANY PROCEEDING~~
 2 ~~IN WHICH THE PARTIES CONSENT TO THE USE OF ONE INTERPRETER.~~

3 ~~(D) (1) COURTS SHALL ONLY APPOINT CERTIFIED LANGUAGE~~
 4 ~~INTERPRETERS WHO SATISFY THE CERTIFICATION STANDARDS UTILIZED BY THE~~
 5 ~~ADMINISTRATIVE OFFICE OF THE COURTS.~~

6 ~~(2) FOR THOSE LANGUAGES FOR WHICH NO CERTIFICATION~~
 7 ~~STANDARDS EXIST, THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ADOPT~~
 8 ~~THE FEDERAL COURT INTERPRETER STANDARDS FOR "PROFESSIONALLY~~
 9 ~~QUALIFIED" INTERPRETERS.~~

10 [(b)] ~~(E)~~ (D) The court shall give an interpreter appointed under this section:

11 (1) compensation for services in an amount equal to that provided for
 12 interpreters of languages other than English; and

13 (2) reimbursement for actual and necessary expenses incurred in the
 14 performance of services.

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

18 ~~(1) TRANSLATION OF ALL SUBPOENAS, SUMMONS, AND WRITS INTO ANY~~
 19 ~~LANGUAGE SPOKEN BY 3% OF EITHER THE STATE POPULATION OR THE POPULATION~~
 20 ~~WITHIN THE GEOGRAPHIC JURISDICTION OF A COURTHOUSE; AND~~

21 ~~(2) TRANSLATION OF IMPORTANT COURT FORMS AND INSTRUCTIONAL~~
 22 ~~MATERIALS IN ANY LANGUAGE SPOKEN BY 3% OF EITHER THE STATE POPULATION~~
 23 ~~OR THE POPULATION WITHIN THE GEOGRAPHIC JURISDICTION OF A COURTHOUSE.~~

24 **~~Article—Courts and Judicial Proceedings~~**

25 ~~9-114.~~

26 ~~(A) THE GENERAL ASSEMBLY FINDS THAT:~~

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

31 ~~(2) COURTS SHOULD ESTABLISH PROCEDURES TO PROVIDE EQUAL~~
 32 ~~ACCESS TO SERVICES REGARDLESS OF LANGUAGE CAPACITY.~~

33 ~~[(a)] (B) If a party or witness is deaf or cannot readily understand or~~
 34 ~~communicate the spoken English language, any party may apply to the court for the~~
 35 ~~appointment of a qualified interpreter to assist that person. Upon the application of~~
 36 ~~any party or witness who [is deaf] CANNOT READILY UNDERSTAND OR~~

~~1 COMMUNICATE THE SPOKEN ENGLISH LANGUAGE, the court shall appoint a qualified
2 interpreter to assist that person. The court shall maintain a directory of interpreters
3 [for manual communication and/or oral interpretation] to assist [deaf persons]
4 PARTIES OR WITNESSES WHO CANNOT READILY UNDERSTAND OR COMMUNICATE
5 THE SPOKEN ENGLISH LANGUAGE.~~

~~6 (C) THE APPOINTMENT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION
7 SHALL INCLUDE MORE THAN ONE INTERPRETER WHEN NECESSARY TO PROTECT
8 CLIENT CONFIDENTIALITY, ENSURE DUE PROCESS OF LAW, OR ASSIST IN THE
9 PRESENTATION OF THE CASE.~~

~~10 (D) (1) COURTS SHALL ONLY APPOINT CERTIFIED LANGUAGE
11 INTERPRETERS WHO SATISFY THE CERTIFICATION STANDARDS UTILIZED BY THE
12 ADMINISTRATIVE OFFICE OF THE COURTS.~~

~~13 (2) FOR THOSE LANGUAGES FOR WHICH NO CERTIFICATION
14 STANDARDS EXIST, THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ADOPT
15 THE FEDERAL COURT INTERPRETER STANDARDS FOR "PROFESSIONALLY
16 QUALIFIED" INTERPRETERS.~~

~~17 [(b)] (E) Any interpreter appointed pursuant to this section shall be allowed
18 compensation the court deems reasonable. It is discretionary with the court, in
19 accordance with the provisions of the federal Americans with Disabilities Act, to tax,
20 as part of the costs of the case, amounts paid to an interpreter for services and
21 expenses. Otherwise the amount shall be paid by the county where the proceedings
22 were initiated.~~

~~23 (F) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ENSURE THAT ALL
24 COURTS IN MARYLAND TRANSLATE DOCUMENTS INTO LANGUAGES OTHER THAN
25 ENGLISH AS NEEDED TO ENSURE DUE PROCESS OF LAW, INCLUDING:~~

~~26 (1) TRANSLATION OF ALL SUBPOENAS, SUMMONS, AND WRITS INTO ANY
27 LANGUAGE SPOKEN BY 3% OF EITHER THE STATE POPULATION OR THE POPULATION
28 WITHIN THE GEOGRAPHIC JURISDICTION OF A COURTHOUSE; AND~~

~~29 (2) TRANSLATION OF IMPORTANT COURT FORMS AND INSTRUCTIONAL
30 MATERIALS IN ANY LANGUAGE SPOKEN BY 3% OF EITHER THE STATE POPULATION
31 OR THE POPULATION WITHIN THE GEOGRAPHIC JURISDICTION OF A COURTHOUSE.~~

32 SECTION 2. AND BE IT FURTHER ENACTED, That:

33 (a) The Chief Judge of the Court of Appeals, in conjunction with the
34 administrative judges of the circuit courts, the Standing Committee on Rules of
35 Practice and Procedure, and the Chief Judge of the District Court of Maryland, shall
36 prepare a report on contacts and benchmarks and develop a plan for the expedited
37 implementation of utilization of capable interpreters in criminal, juvenile, and civil
38 proceedings.

39 (b) Prior to adoption of a plan the parties shall consider:

- 1 (1) whether and how to certify interpreters;
- 2 (2) the nature, number, and manner of translating court forms and
3 documents as needed to ensure due process of law; and
- 4 (3) the appointment of multiple interpreters when necessary to protect
5 client confidentiality.
- 6 (c) The Chief Judge of the Court of Appeals may consult with representatives
7 of appropriate bar associations in the preparation of the reports required under this
8 Act.

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Chief Judge of the
10 Court of Appeals shall report to the General Assembly of Maryland on or before
11 December 15, 2001, in accordance with § 2-1246 of the State Government Article, on
12 the implementation plan described in this Act and, thereafter, on December 15 each
13 year on the progress toward meeting the benchmarks and other requirements set
14 forth in the implementation plan until such time as the plan is fully implemented.

15 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect October 1, 2001.