

# SENATE BILL 256

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8lr1522

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By: **Senator Brochin**

Introduced and read first time: January 24, 2008

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Dismissal of Criminal Proceeding – Failure to Provide**  
3 **Interpreter**

4 FOR the purpose of prohibiting a court from dismissing a criminal proceeding based  
5 on a certain violation of the right to a speedy trial unless the court holds a  
6 certain hearing; requiring the court to make certain detailed written findings  
7 before dismissing the case when the court is unable to provide a qualified  
8 interpreter for a defendant who cannot readily understand or communicate the  
9 English language; requiring the court to address certain issues when making  
10 certain findings; and generally relating to the dismissal of a criminal proceeding  
11 for failure to provide an interpreter.

12 BY repealing and reenacting, with amendments,  
13 Article – Criminal Procedure  
14 Section 1–202  
15 Annotated Code of Maryland  
16 (2001 Volume and 2007 Supplement)

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

19 **Article – Criminal Procedure**

20 1–202.

21 (a) The court shall appoint a qualified interpreter to help a defendant in a  
22 criminal proceeding throughout any criminal proceeding when the defendant is:

23 (1) deaf; or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (2) cannot readily understand or communicate the English language  
2 and cannot understand a charge made against the defendant or help present the  
3 defense.

4           (b) The court shall give an interpreter appointed under this section:

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

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

9           (c) **(1) THE COURT MAY NOT DISMISS A CRIMINAL PROCEEDING**  
10 **BASED ON A VIOLATION OF THE DEFENDANT'S RIGHT TO A SPEEDY TRIAL FOR**  
11 **FAILURE TO PROVIDE A QUALIFIED INTERPRETER FOR THE DEFENDANT UNDER**  
12 **SUBSECTION (A)(2) OF THIS SECTION WITHOUT FIRST HOLDING A HEARING AND**  
13 **MAKING DETAILED WRITTEN FINDINGS THAT THE COURT HAS NO REASONABLE**  
14 **ALTERNATIVE BUT TO DISMISS THE CASE AGAINST THE DEFENDANT.**

15           **(2) IN MAKING THE WRITTEN FINDINGS UNDER PARAGRAPH (1)**  
16 **OF THIS SUBSECTION, THE COURT SHALL ADDRESS THE FOLLOWING:**

17                   **(I) THE ASSESSMENT OF THE NEED FOR A QUALIFIED**  
18 **INTERPRETER FOR THE DEFENDANT;**

19                   **(II) THE REASONS FOR THE DELAY, INCLUDING A**  
20 **DISCUSSION OF THE MOTIONS MADE BY THE DEFENSE AND THE STATE;**

21                   **(III) THE LENGTH OF DELAY, INCLUDING THE REASONS FOR**  
22 **EACH POSTPONEMENT OF THE PROCEEDING AND THE REASON FOR THE**  
23 **LENGTH OF EACH POSTPONEMENT;**

24                   **(IV) THE DEFENDANT'S ASSERTION OF A RIGHT TO A SPEEDY**  
25 **TRIAL, INCLUDING AN ASSESSMENT OF THE DATE WHEN THE DEFENDANT FIRST**  
26 **DEMANDED A SPEEDY TRIAL, THE FREQUENCY AND FORCE OF THE**  
27 **DEFENDANT'S OBJECTIONS, AND ANY WAIVERS OF RIGHTS MADE BY THE**  
28 **DEFENDANT; AND**

29                   **(V) THE PREJUDICE TO THE DEFENDANT FROM THE DELAY**  
30 **IN PROCEEDING, INCLUDING THE CONDITIONS OF PRETRIAL INCARCERATION**  
31 **OR SUPERVISION, THE ANXIETY OR CONCERN OF THE DEFENDANT, AND THE**  
32 **POSSIBILITY THAT THE DEFENSE MAY BE IMPAIRED IF THE DEFENDANT IS**  
33 **UNABLE TO ASSIST IN THE PREPARATION OF THE DEFENSE.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2    October 1, 2008.