

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 346

(Senator King, *et al.*)

Education, Energy, and the Environment

Health and Government Operations

Maryland Sign Language Interpreters Act

This bill establishes a regulatory framework for the licensure of individuals who provide sign language interpretation services in the State. The State Board of Sign Language Interpreters is established in the Office of the Deaf and Hard of Hearing (ODHH). Beginning January 1, 2025, an individual must be licensed by the board before providing sign language interpretation services in the State. The Sign Language Interpreters Fund is established to collect associated revenues and pay for the board’s costs. In fiscal 2025 only, the Governor must appropriate \$100,000 in general funds to the board. Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, the board terminates July 1, 2033.

Fiscal Summary

State Effect: General fund expenditures increase by \$94,300 in FY 2024 for one-time-only programming costs for the Judiciary. General/special fund expenditures increase by \$159,500 in FY 2024 for ODHH personnel to begin implementation; out-years reflect additional ODHH personnel. General funds are needed for expenditures not covered by fee revenues; \$100,000 in general fund expenditures is mandated in FY 2025. Special fund revenues from fees may increase minimally in FY 2024 and are assumed to increase by \$90,000 in FY 2025; out-years reflect additional licensees and renewals. Minimal increase in general fund revenues and potential minimal increase in expenditures due to the bill’s penalty provisions. **This bill establishes a mandated appropriation for FY 2025.**

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	\$0	-	-	-	\$0
SF Revenue	-	\$90,000	\$118,000	\$171,000	\$224,000
GF Expenditure	\$94,300	\$0	\$0	\$0	\$0
GF/SF Exp.	\$159,500	\$374,000	\$376,800	\$393,600	\$414,400
Net Effect	(\$253,800)	(\$284,000)	(\$258,800)	(\$222,600)	(\$190,400)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Circuit courts may be affected to the extent that the bill limits the number of available sign language interpreters for court cases, which may create operational delays and/or increased costs for such services. Potential minimal increase in expenditures due to the bill’s penalty provisions.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

General Requirements, Definitions, and Exclusions

“Provide sign language interpretation services” means to convey the meaning of a message that is expressed in (1) an oral or signed language by rendering the message in American Sign Language (ASL) or (2) ASL by rendering the message in an oral or signed language. It includes providing sign language interpretation services in a video remote interpreting setting.

The licensure requirement does not apply in limited circumstances, such as to an individual who provides sign language interpretation services as an uncompensated volunteer and in a setting in which a sign language interpreter is not otherwise required by law or provides sign language interpretation services to prevent undue harm in the event of an emergency until a licensed sign language interpreter becomes available.

State Board of Sign Language Interpreters

The State Board of Sign Language Interpreters is established in ODHH, subject to specified conditions and requirements for board membership and appointment. The board exercises its powers, duties, and functions subject to the authority of the Governor. A member of the board may not receive compensation but is entitled to reimbursement for travel expenses. ODHH must provide appropriate staff to assist the board in carrying out its duties.

Board Duties and Regulatory Requirements

Principal among its duties, the board must license qualified individuals to provide sign language interpretation services and set by regulation reasonable fees for the issuance and renewal of licenses. By July 1, 2024, the board must establish and publish licensing requirements for sign language interpreting in all settings. Additionally, the board must:

- develop and implement a public awareness campaign to inform the public and relevant professionals of the licensing requirements under the bill;
- establish a visiting sign language interpreter registry;
- develop and maintain a web portal to accept license applications and related documentation, complaints, and registrations of visiting sign language interpreters;
- develop and maintain a publicly searchable database of sign language interpreters;
- adopt regulations to govern sign language interpretation services provided in a video remote interpreting setting;
- adopt regulations that allow deaf and hard of hearing individuals to choose whether sign language interpretation services be provided to them in a video remote interpreting setting or through in-person interpreting;
- promote the profession of sign language interpreting through various channels, including by providing workshops and trainings to raise public awareness and to facilitate professional development; and
- reasonably seek additional funding sources.

The board may establish criteria for the development of portfolios and requirements in the following specialist areas: (1) legal settings; (2) medical settings; (3) behavioral health settings; (4) language pairs other than ASL and spoken English; (5) conference interpreting; (6) tactile and low-vision sign language interpretation services; (7) intralinguistic translations and sign language interpretation; and (8) any other areas determined to be necessary by the board.

Sign Language Interpreters Fund

The Sign Language Interpreters Fund is a special, nonlapsing fund administered by the director of ODHH. The board must set by regulation reasonable fees for the issuance and renewal of licenses and other services. The fund must be used exclusively to cover the actual documented direct and indirect costs of fulfilling the duties of the board, as specified. Fee revenue collected by the board accrues to the fund; investment earnings accrue to the general fund. Expenditures from the fund may only be made in accordance with the State budget.

Licensure

The bill establishes two categories for licensure: a standard license and a provisional license. The standard license requires an individual to have a valid nationally or regionally recognized certification or other certification approved by the board, in addition to any other qualifications established by the board. The license fee and term must be set by the board (until established by the board in regulation, initial license fees are \$150).

The board may waive the certification requirements for applicants who (1) are licensed to provide sign language interpretation services in another state; (2) can furnish satisfactory evidence that, at the time the applicant was licensed in the other state, the qualifications for licensure in the other state were substantially equivalent to Maryland's; and (3) the other state waives the qualifications of licensees from Maryland to a similar extent as Maryland waives the qualification requirements for individuals licensed in that state.

A provisional license requires an individual to have taken and passed a nationally or regionally recognized knowledge and ethics exam or other exam approved by the board, plus satisfy any other requirements established by the board. A provisional licensee may not provide services in a legal, medical, or behavioral health setting, except as specified. The license fee must be set by the board. The license term is two years, and the license may be renewed one time (there is also a five-year limit on total provisional license duration).

Reporting Requirements

Office of Deaf and Hard of Hearing: In its annual report to the Governor and the General Assembly, ODHH must provide information on the activities of the board, including (1) the number of sign language interpreters licensed by the board and (2) the number of complaints received by the board, differentiated by the type of complaint.

Judiciary: By January 1, 2026, and annually thereafter for two years, the Judiciary must provide a report to specified committees of the General Assembly on:

- the number of cases in Maryland courts in which a sign language interpreter was requested or required;
- the average number of days needed to secure a sign language interpreter for a case;
- the number of cases postponed in order to secure a sign language interpreter; and
- the number of cases in which a sign language interpreter was used who, due to an emergency situation, was not licensed by ODHH.

Prohibited Actions and Penalties

The bill specifies prohibited actions for individuals and licensees, subject to specified enforcement actions by the board or a court of competent jurisdiction. The board may use a restorative justice program in lieu of taking final action on a complaint against a licensee. The board must adopt regulations for the use of such programs.

An individual who violates any provision of Title 9, Subtitle 24, Part III (Sign Language Interpreters) of the State Government Article is guilty of a misdemeanor. On conviction, a first-time offender is subject to a fine of up to \$500 and/or imprisonment for up to 90 days;

a repeat offender is subject to a fine of at least \$500 and up to \$1,000 and/or imprisonment for up to 90 days.

Current Law: Sign language interpreters are not required to be licensed in Maryland. The Judiciary (Administrative Office of the Courts) advises that its Court Interpreter Program, which maintains a registry from which courts must assign an interpreter if one is available, requires new ASL interpreters to be nationally certified to join the registry.

State Fiscal Effect:

Judiciary

Expenditures: The Judiciary advises that the bill's reporting requirement necessitates one-time programming changes to the Judicial Information System. Thus, general fund expenditures increase by \$94,269 in fiscal 2024 only.

The bill likely affects the Judiciary to the extent that it limits the number of available sign language interpreters for court cases, which may create operational delays and/or increase the cost of providing the service. The Judiciary advises that it may have to eliminate the use of remote sign language interpreters, or at least pay higher hourly rates to secure their services, as it is likely that requiring remote providers to have a Maryland license will reduce the number of interpreters for hire. If the use of remote sign language interpreters is eliminated or curtailed, courts may be forced to delay certain hearings for deaf and hard of hearing individuals until in-person interpreters can be scheduled.

Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court after licensing is required (beginning in fiscal 2025). This impact is expected to diminish in the out-years as more sign language interpreters comply with the bill; by fiscal 2028, most are assumed to be properly licensed.

Office of Deaf and Hard of Hearing

Expenditures: ODHH general and special fund expenditures increase by \$159,546 in fiscal 2024 to hire personnel to begin implementation of the new board and regulatory program. As additional personnel are needed in fiscal 2025 when licensing must commence, general and special fund expenditures increase by \$373,994 that year (with \$100,000 of the general fund expenditures mandated and another \$183,994 needed to cover costs). Special fund revenues may increase negligibly in fiscal 2024 if the board is prepared to issue licenses in advance of the required timeframe. Fees are expected to generate \$90,000 in special fund revenues in fiscal 2025, when licensure is required, escalating to \$224,000 in fiscal 2028. As fee revenues are not *required* to cover expenditures under the

bill, there is a persistent and significant funding gap between fee revenues and total expenditures – necessitating supplementation with general funds each year; however, that gap narrows as more licenses are issued. Accordingly, under the assumptions below, for the remainder of the period covered by this fiscal and policy note (fiscal 2026 through 2028), general fund expenditures cover approximately \$258,800 to \$190,400 of total costs (which range from approximately \$376,800 to \$414,400).

ODHH must provide staff for the board, and the director of ODHH must administer the Sign Language Interpreters Fund. This analysis phases in implementation costs during fiscal 2024 and 2025 and assumes that general fund support for the board flows through the special fund.

General and special fund expenditures increase by \$159,546 in fiscal 2024, which reflects the hiring of one deputy director and one part-time (50%) general counsel, effective October 1, 2023, to begin implementation of the bill. General and special fund expenditures increase to \$373,994 in fiscal 2025 (when the bill’s delayed licensure requirement takes effect) to reflect the cost of hiring one interpreter coordinator and one compliance officer, effective July 1, 2024, to handle licensure applications, provide workshops and trainings, and assist with the continued implementation of the bill. The estimate includes salaries, fringe benefits, one-time start-up costs, travel costs, and ongoing operating expenses.

	<u>FY 2024</u>	<u>FY 2025</u>
New Positions	1.5	2.0
Salaries and Fringe Benefits	\$145,125	\$357,018
Other Operating Expenses	<u>14,421</u>	<u>16,976</u>
ODHH Implementation Costs	\$159,546	\$373,994

Future year expenditures reflect full salaries with annual increases and employee turnover and annual increases in operating expenses.

Revenues: This analysis assumes, based on ODHH projections, that licenses are issued for a one-year term, with the first set of licenses (750) issued in fiscal 2025. In fiscal 2026, another 250 interpreters become licensed and the initial 750 licensees renew. In each of the next two years, 500 new licenses are issued, and all existing licenses are assumed to be renewed. ODHH anticipates establishing a \$100 licensing fee in regulations; given the requirement to have regulations in place before licensure activity commences, this analysis assumes payment of \$100 for each new and renewal license. Thus, special fund revenues from licensure fees increase by \$75,000 in fiscal 2025, increasing to \$200,000 by fiscal 2028. If licensing activity is able to commence before the end of fiscal 2024, license revenues increase minimally that year, and the temporary fee of \$150 is likely paid (assuming the regulations have not yet taken effect). Any such licensees must renew the following year.

The delayed uptake in licensure reflects ODHH’s expectation that many interpreters will initially attempt to work without a license. ODHH anticipates that, as enforcement actions are taken against these individuals, there will be a significant increase in unlicensed sign language interpreters applying for licenses. Additionally, ODHH anticipates that there will be a rapid increase in remote sign language interpreters, especially those located out of State, applying for licenses as they gain awareness of the licensing requirement and businesses gradually shift toward using licensed interpreters.

The board is required to promote the profession of sign language interpreting, including by providing workshops and trainings to raise public awareness and to facilitate professional development. ODHH anticipates that workshops and trainings will generate minimal revenues. In fiscal 2025, ODHH estimates that its workshops, which will include monthly workshops and quarterly weekend-long workshops, will generate a total of \$15,000 in revenues. In subsequent years, revenue projections increase as additional individuals become licensed and enroll in workshops.

Exhibit 1 shows estimated annual special fund revenues from licensure fees and workshops and trainings in fiscal 2024 through 2028.

Exhibit 1
Estimated Annual Special Fund Revenues from
Licensure and Workshops/Trainings
Fiscal 2024-2028

	<u>New Licenses</u>	<u>Renewal Licenses</u>	<u>Licensure Revenues</u>	<u>Workshops/ Trainings Revenues</u>	<u>Total Revenues</u>
FY 2024	-	0	\$-	\$0	\$-
FY 2025	750	-	\$75,000	\$15,000	\$90,000
FY 2026	250	750	\$100,000	\$18,000	\$118,000
FY 2027	500	1,000	\$150,000	\$21,000	\$171,000
FY 2028	500	1,500	\$200,000	\$24,000	\$224,000

¹ Although general fund expenditures, including the \$100,000 mandated appropriation, would also technically accrue to the special fund, this analysis only reflects the fee revenues doing so.

Source: Office of the Deaf and Hard of Hearing; Department of Legislative Services

Other Effects

The Maryland School for the Deaf is likely affected to the extent that the bill limits the number of available sign language interpreters for student instruction and support, which may create operational delays and/or increase the cost of providing educational services to its students.

Small Business Effect: To the extent that small businesses have employees that currently provide sign language interpretation services, those employees must become licensed beginning January 1, 2025. Any delay in initial implementation of licensing could potentially disrupt the ability of these businesses to continue providing such services. Conversely, all businesses, including small businesses, benefit from enhanced assurance that sign language interpretation services are being provided by qualified individuals.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1107 and SB 748 of 2022 and HB 535 and SB 431 of 2021.

Designated Cross File: HB 260 (Delegate Bagnall, *et al.*) - Health and Government Operations.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Budget and Management; Office of the Deaf and Hard of Hearing; Department of Legislative Services

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