

34:1-69.7 to 34:1-69.17

LEGISLATIVE HISTORY CHECKLIST

NJSA: 34:1-69.7 -10 34:1-69.17

(Deaf and hearing impaired-provide interpreters for official proceedings)

LAWS OF: 1983

CHAPTER: 564

Bill No: A1884

Sponsor(s): Kavanaugh and Smith

Date Introduced: September 30, 1982

Committee: Assembly: Judiciary, Law Public Safety and Defense

Senate: Institutions, Health and Welfare

Amended during passage: Yes

Amendments during passage denoted by asterisks

Date of Passage: Assembly: July 7, 1983

Senate: January 9, 1984

Date of Approval: January 17, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on Signing: No

Following were printed:

Reports: No

Hearings: No

Montana statute mentioned in sponsor's statement:
Montana Code Annotated 49:4-501 et. seq.

LEGISLATIVE HISTORY
1983
CHAPTER 564
AUGUST 17 1984

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1884

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 30, 1982

By Assemblymen KAVANAUGH and SMITH

AN ACT providing for interpreters for the hearing impaired in official proceedings and repealing P. L. 1971, c. 230.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Legislature finds and declares that it shall be the policy
2 of this State to secure the ***[constitutional]*** rights of hearing im-
3 paired persons who, because of impairment of hearing or speech, are
4 unable to readily understand or communicate spoken language
5 and who consequently cannot be fully protected in legal proceedings
6 unless qualified interpreters are available to assist them.

1 2. As used in this act:

2 a. "Appointing authority" means the presiding judge or justice
3 of any court, the chairman of any board, commission, or authority,
4 the director or commissioner of any department or agency, or any
5 other person presiding at any hearing or other proceeding in which
6 a qualified interpreter is required pursuant to this act.

7 b. "Hearing impaired person" means a person whose hearing is
8 ***[totally impaired or whose hearing is so seriously]*** impaired *so*
9 as to prohibit the person from understanding oral communications.
10 The term further includes a person who, because of loss of hearing,
11 cannot communicate spoken language.

12 c. "Principal party in interest" means a person who is a named
13 party in any proceeding or who will be directly affected by the
14 decision or action which may be made or taken.

15 d. "Qualified interpreter" means an interpreter **certified by the*
15A *National Registry of Interpreters for the Deaf, Inc. and** listed
16 by the State Division of the Deaf in the Department of Labor or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Assembly committee amendments adopted June 13, 1983.**

17 the New Jersey Registry of Interpreters for the Deaf.

18 e. "Intermediary interpreter" means a ***[knowledgeable hearing**
 19 **impaired person]*** **certified interpreter** who, because of his inti-
 20 mate acquaintance with hearing impaired persons ***[who use mainly**
 21 **natural gestures for communicating]*** **with minimal language*
 22 *skills**, can be used as an intermediary between the hearing im-
 23 paired person and a qualified interpreter.

1 3. ***[In all circumstances provided in section 4 of this act, prior**
 2 **to appointing the qualified interpreter, the appointing authority**
 3 **shall determine if the qualified interpreter is able to accurately**
 4 **communicate with and translate information to and from the hear-**
 5 **ing impaired person involved in the case.]***

6 If a qualified interpreter **or the hearing impaired client** states
 7 that ***[he is unable to render a]*** **the interpretation is not** satis-
 7A factory ***[interpretation]*** and that an intermediary interpreter
 8 will improve the quality of interpretation, the appointing authority
 9 shall appoint an intermediary interpreter to assist the qualified
 10 interpreter. An intermediary interpreter shall be subject to the
 11 same provisions that govern a qualified interpreter under this act.

1 4. The appointing authority shall appoint a qualified interpreter
 2 to assist a hearing impaired person throughout the proceedings
 3 and in preparation with counsel as follows:

4 a. In any case before any court or grand jury in which a hearing
 5 impaired person is a party, either as a complainant, defendant or
 6 witness*, *or as hearing impaired parents of a juvenile**;

7 b. At all stages in any proceeding of a judicial or quasi-judicial
 8 nature before any State agency or county or municipal governing
 9 body or agency in which a hearing impaired person is a principal
 10 party in interest, either as a complainant, defendant, witness or
 11 suppliant*, *or as hearing impaired parents of a juvenile**;

12 c. In any proceedings in which a hearing impaired person may
 13 be subjected to confinement or criminal sanction or in any proceed-
 14 ing preliminary thereto, including a coroner's inquest, grand jury
 15 proceedings and proceedings related to mental health commitments.
 15A **A hearing impaired person who has been arrested and who is*
 15B *otherwise eligible for release shall not be held in custody pending*
 15C *the arrival of an interpreter.**

16 (1) When a hearing impaired person is arrested for an alleged
 17 violation of a criminal law, a qualified interpreter shall be ap-
 18 pointed prior to **reading of Miranda warnings** interrogating or
 19 taking a statement from the hearing impaired person.

20 (2) Any statement, written or oral, made by a hearing impaired
 21 person in reply to a question from a law enforcement officer or
 22 any other person having a prosecutorial function in any criminal

23 or quasi-criminal proceeding shall not be used against that hearing
24 impaired person unless either the statement was made or elicited
25 through a qualified interpreter and was made knowingly, volun-
26 tarily and intelligently or, the hearing impaired person has re-
27 quested a waiver pursuant to section 10 of this act and the court
28 makes a finding that any statement made by the hearing impaired
29 person was made knowingly, voluntarily and intelligently.

30 (3) The provisions of this subsection shall not apply to appre-
31 hensions, arrests or statements involving a violation of Title 39
32 of the Revised Statutes (Motor Vehicles and Traffic Regulation).

1 5. In any action or proceeding in which an interpreter is required
2 to be appointed, the court or administrative authority may not com-
3 mence proceedings until the appointed interpreter is in full view
4 of and spatially situated to assure proper communication with the
5 hearing impaired person involved as a participant.

1 6. Whenever an appointing authority is required to appoint an
2 interpreter, the appointing authority shall request a list of qualified
3 interpreters from either the State Division of the Deaf in the
4 Department of Labor or the New Jersey Registry of Interpreters
5 for the Deaf.

6 If the appointing authority's choice of a qualified interpreter
7 does not meet the needs or wishes of the hearing impaired person,
8 the appointing authority shall appoint another qualified interpreter.

1 7. a. The State Division of the Deaf in the Department of Labor,
2 created pursuant to P. L. 1941, c. 197 (C. 34:1-69.1 et seq.) shall
3 maintain a list of qualified interpreters and provide the list to
4 appointing authorities upon request.

5 b. The division shall regularly obtain a list of qualified inter-
6 preters from the New Jersey Registry of Interpreters for the
7 Deaf and ensure that the list contains the most current information
8 available from the registry.

1 8. Every appointed interpreter before entering upon his duties,
2 shall take an oath that he will make a true interpretation in an
3 understandable manner to the person for whom he is appointed
4 and that he will repeat the statements of the person in the English
5 language to the best of his skill and judgment.

1 9. a. An appointed interpreter shall receive a reasonable fee
2 for his services, together with his actual expenses for travel and
3 ***[transportation]*** **waiting time**.

4 b. The Supreme Court shall establish rules governing the method
5 for payment and the amount of the fee. In the case of any civil
6 or criminal proceeding before a court in this State the fee shall
7 be paid by the court and in the case of any proceeding before a

8 State agency or a county or municipal governing body or agency
9 the fee shall be paid that agency or governing body.

1 10. The right of a hearing impaired person to an interpreter
2 shall not be waived unless the hearing impaired person requests
3 a waiver in writing. The waiver shall be granted if the hearing
4 impaired person's counsel***[, if any,]*** and the appointing authority
5 approve the request for a waiver.

1 11. Any information that the interpreter gathers from the hear-
2 ing impaired person pertaining to any proceeding then pending
3 shall at all times remain confidential and privileged on an equal
4 basis with the attorney-client privilege***[, unless the hearing im-**
5 **paired person desires that the information be communicated to**
6 **other persons]**.*

1 12. P. L. 1971, c. 230 (C. 2A:11-28.1) is repealed.

1 13. This act shall take effect immediately.

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2 shall not be waived unless the hearing impaired person requests
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6 other persons.

1 12. P. L. 1971, c. 230 (C. 2A:11-28.1) is repealed.

1 13. This act shall take effect immediately.

STATEMENT

This bill provides that hearing impaired persons shall have a qualified interpreter for the deaf to assist them in all proceedings before a court or government administrative agency. The bill requires that an interpreter be appointed whenever a hearing impaired person is a principal party in interest, either as a complainant, defendant, witness or supplicant.

The bill directs the State Division of the Deaf to obtain the names of qualified interpreters for the deaf from the New Jersey Registry of Interpreters for the Deaf and to make the list available to public officials upon request. The State Supreme Court is directed to establish rules governing payment and the amount of the interpreter's fee. The fee shall be paid by the court in the case of any proceeding before it and by the State or local agency or governing body in the case of any proceeding before that agency or governing body.

This bill is based on a recently enacted statute in Montana.

ASSEMBLY JUDICIARY, LAW, PUBLIC SAFETY AND
DEFENSE COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1884
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 13, 1983

Assembly Bill No. 1884 provides that hearing impaired persons shall have a qualified interpreter for the deaf to assist them in all proceedings before a court or government administrative agency. The bill requires that an interpreter be appointed whenever a hearing impaired person is a principal party in interest.

The bill directs the State Division of the Deaf to obtain the names of qualified interpreters for the deaf from the New Jersey Registry of Interpreters for the Deaf and to make the list available to public officials upon request. The State Supreme Court is directed to establish rules for the amount and payment of interpreter's fees.

Amendments to this bill proposed by the sponsor were adopted by the committee. The amendments that make substantive changes to the bill are as follows:

1. Deletion of the first paragraph of section 3 because the authority appointing a qualified interpreter would not have the expertise to determine if the interpreter is able to accurately communicate with and translate information to and from the hearing impaired person.

2. Addition of the requirement that a qualified interpreter be appointed for the hearing impaired parents of a juvenile.

3. Addition into subsection c. of section 4 a sentence stating that a hearing impaired person who has been arrested and who is otherwise eligible for release shall not be held in custody pending the arrival of an interpreter.

4. Addition into subsection c. (1) of section 4 of the requirement that an interpreter be appointed prior to the reading of Miranda warnings.

5. Deletion of the last phrase in section 11 which would have allowed a hearing impaired person to consent to the release of confidential information gathered by an interpreter.

The remaining amendments clarify the bill.

This bill with the committee amendments is supported by the New Jersey Association of the Deaf, Inc., New Jersey Registry of Inter-

preters for the Deaf, Inc., the New Jersey Division of the Deaf and Parents for Deaf Awareness.

A fiscal note had been requested but not received by the committee at the time it considered the bill. The Division of Budget and Program Review has, however, indicated that the fiscal impact is anticipated to be "minimal."

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1884

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1983

This bill provides that hearing impaired persons shall have a qualified interpreter for the deaf to assist them in all proceedings before a court or government administrative agency. The bill requires that an interpreter be appointed whenever a hearing impaired person is a principal party in interest.

The bill directs the State Division of the Deaf to obtain the names of qualified interpreters for the deaf from the New Jersey Registry of Interpreters for the Deaf and to make the list available to public officials upon request. The State Supreme Court is directed to establish rules for the amount and payment of the interpreter's fees. The fees shall be paid by the court or agency conducting the proceeding.

An official fiscal note has not yet been prepared on this bill, however, the Division of Budget and Program Review estimates that the cost of the bill is minimal.