

Department of Legislative Services
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 2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 431 (Senators King and Guzzone)
 Education, Health, and Environmental Affairs

Maryland Sign Language Interpreter Act

This bill establishes a regulatory framework for the licensure of individuals who provide sign language interpretation services, as defined, in the State. The State Board of Sign Language Interpreters is established in the Maryland Department of Labor (MDL) for this purpose; however, the bill also specifies that the Office of the Deaf and Hard of Hearing (ODHH) in the Governor’s Office must provide staff for the board. The Sign Language Interpreters Fund is established to collect associated revenues and pay for the board’s costs. The director of ODHH administers the fund. In fiscal 2023 only, the Governor must appropriate \$100,000 in general funds to implement the bill. **Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, the bill terminates July 1, 2027.**

Fiscal Summary

State Effect: General fund expenditures increase by \$100,000 in FY 2023. Special fund expenditures increase by \$279,900 in FY 2023 and by \$291,300 to \$312,000 annually thereafter. Special fund revenues increase by \$400,000 in FY 2023 and by \$300,000 annually thereafter. **This bill establishes a mandated appropriation for FY 2023.**

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
SF Revenue	\$0	\$400,000	\$300,000	\$300,000	\$300,000
GF Expenditure	\$0	\$100,000	\$0	\$0	\$0
SF Expenditure	\$0	\$279,900	\$291,300	\$301,500	\$312,000
Net Effect	\$0	\$20,100	\$8,700	(\$1,500)	(\$12,000)

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. Local government finances and operations are not otherwise materially affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

General Requirements, Definitions, and Exclusions

Except as otherwise provided in the bill, beginning January 1, 2023, an individual must be licensed by the State Board of Sign Language Interpreters before the individual may provide sign language interpretation services in the State or represent to the public that the individual is authorized to do so.

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

The bill does not apply in limited circumstances, such as to an individual who (1) engages in sign language interpreting as an uncompensated volunteer and in a setting in which a sign language interpreter is not otherwise required by law or (2) provides sign language interpreting services to prevent undue harm in the event of an emergency until a licensed sign language interpreter can arrive.

Board of Sign Language Interpreters in the Maryland Department of Labor

The State Board of Sign Language Interpreters is established in MDL, 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 Secretary of Labor. A member of the board may not receive compensation as a member of the board but is entitled to reimbursement of travel expenses.

Office of the Deaf and Hard of Hearing to Provide Staff for Board

ODHH in the Governor’s Office must assign an appropriate number of staff to manage the operations of the board. ODHH staff are responsible for assisting the board in carrying out its responsibilities, as specified, including providing technical assistance to license applicants and other interested parties.

Board Regulatory Requirements

In addition to other regulatory requirements, such as establishing fees in regulation, the board must:

- establish a visiting sign language interpreter registry;
- develop and maintain an Internet portal to accept license applications and related documentation, complaints, and registrations of visiting sign language interpreters;
- establish criteria for the development of portfolios in specified specialist areas, including legal and medical settings, subject to specified requirements;
- establish requirements for (1) providing sign language interpretation services in a behavioral health, legal, or medical setting; (2) intralinguistic translations and sign language interpretation; and (3) tactile and low-vision sign language interpretation services;
- maintain a list of the names and mailing addresses of all licensees, including by license type (the board is authorized to release the list to the public); and
- develop and implement a public awareness campaign to inform the public and relevant professionals of the licensing requirement under the bill.

Sign Language Interpreters Fund

The Sign Language Interpreters Fund is established, although the bill does not specify in which unit of State government, to approximate the costs associated with the administration and enforcement of the bill, and may only be used for that purpose. The director of ODHHS in the Governor's Office must administer the fund. 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 recognized certification, 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, initial license fees are \$150).

A provisional license requires an individual to have taken and passed a written examination for a nationally recognized certification, in addition to otherwise qualifying for a standard license. A provisional licensee may not provide services in specified settings, such as a legal or medical setting. 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).

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.

An individual who violates any provision of the bill is guilty of a misdemeanor and on conviction is subject to a maximum penalty of a \$500 fine and/or 90 days imprisonment for a first offense and a fine between \$500 and \$1,000 and/or 90 days imprisonment for a second or subsequent offense. In the case of enforcement by a court, on conviction the individual is jointly and severally liable to the party who brought the action for up to \$1,000 per incident, plus all attorney's fees and court costs.

Current Law: Sign language interpreters are not required to be licensed in Maryland. The Judiciary (Administrative Office of the Courts) advises that its courts are required to assign an ASL interpreter with a national certification when possible.

State Fiscal Effect: General/special fund expenditures increase by \$279,949 in fiscal 2023 (\$100,000 in general funds). Special fund expenditures increase by \$291,300 to \$312,000 annually thereafter for the board's ongoing implementation costs. Special fund revenues increase by \$400,000 in fiscal 2023 (\$100,000 from the required general fund appropriation) and by about \$300,000 annually thereafter from license fees.

Implementation Costs

The bill is unclear on the extent to which MDL and/or ODHH are responsible for the costs associated with bill. The board is established in MDL and subject to oversight by the Secretary of Labor. ODHH must provide staff for the board, and the director of ODHH administers the Sign Language Interpreters Fund – which is not established in any particular unit of State government. This analysis assumes that ODHH provides staff and pays the costs for the board, subject to oversight by MDL. This analysis also phases in implementation costs in fiscal 2023 and assumes that general fund support for the board flows through the special fund.

Accordingly, special fund expenditures increase by \$279,949 in fiscal 2023, which accounts for the bill's delayed licensure requirement. This estimate reflects the cost of hiring one program administrator and one half-time assistant Attorney General, effective July 1, 2022, to begin implementation of the bill, followed by other programmatic staff later in the fiscal year. It includes salaries, fringe benefits, one-time start-up costs, one-time information technology costs, travel costs, and ongoing operating expenses.

Positions	3.5
Salaries and Fringe Benefits	\$224,788
One-time Information Technology Costs	25,000
Other Operating Expenses	<u>30,161</u>
Total FY 2023 ODHH Implementation Costs	\$279,949

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses. These costs are supported by general funds in fiscal 2023, and are otherwise paid for in future years with licensing revenues and fund balance.

Revenues

This analysis assumes 1,500 initial two-year licenses are issued at \$400 each, split evenly between fiscal 2023 and 2024, reflecting increased industry awareness and compliance after the initial licensure date, with a minimal number of additional licenses issued thereafter. This analysis assumes that the board establishes such a fee in regulations and that all licensees pay this fee rather than the temporary fee of \$150 specified in the bill. This analysis also assumes that the fiscal 2023 mandated general fund appropriation of \$100,000 accrues to the Sign Language Interpreter Fund. Under these assumptions, special fund revenues increase by approximately \$400,000 in fiscal 2023 and by about \$300,000 annually thereafter. Fees will ultimately be adjusted further to approximate the cost of the board, once there is a known licensee base.

Other Effects

District courts and the Maryland School for the Deaf may be affected to the extent that the bill limits the number of available sign language interpreters for court cases as well as student instruction and support, which may create operational delays and/or increase the cost of providing the service.

Local Fiscal 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 increase the cost of providing the service. Local government finances and operations are not otherwise materially affected.

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, 2023. Any delay in initial implementation of licensing could potentially disrupt the ability of these businesses to continue providing such services, particularly since unlicensed activity is subject to criminal penalties, including incarceration. 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: HB 1652 of 2020, a similar bill, was withdrawn. HB 1064 of 2019, a similar bill, was withdrawn.

Designated Cross File: HB 535 (Delegate Acevero) - Health and Government Operations.

Information Source(s): Maryland Department of Labor; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Office of Administrative Hearings; Maryland School for the Deaf; Department of Legislative Services

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