

# SENATE, No. 1067

## STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

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**District 14 (Mercer and Middlesex)**

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**District 29 (Essex and Hudson)**

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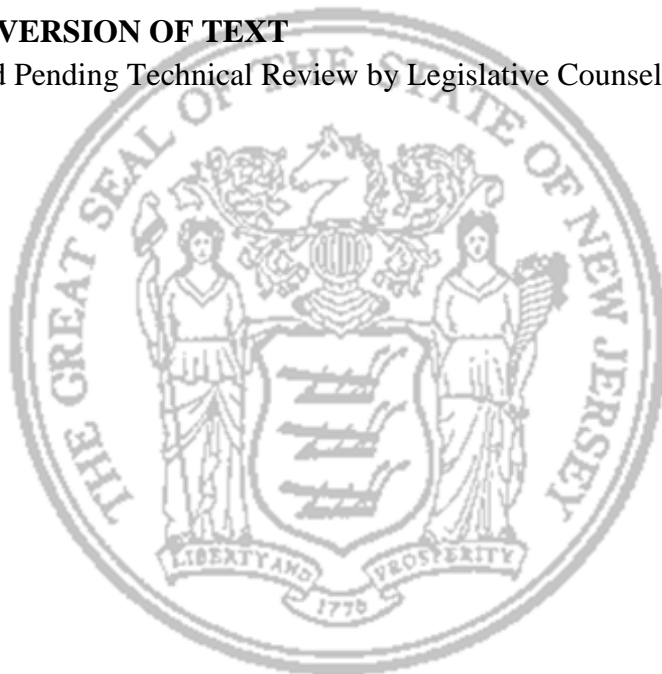
**Senators Burgess, Diegnan, Singer and McKnight**

**SYNOPSIS**

“Right to Mental Health for Individuals who are Deaf or Hard of Hearing Act”; establishes certain requirements concerning provision of mental health services to individuals who are deaf or hard of hearing.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 2/27/2024)**

1 AN ACT concerning access to mental health services for people who  
2 are deaf and hard of hearing and supplementing Title 30 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the “Right to  
9 Mental Health for Individuals who are Deaf or Hard of Hearing  
10 Act.”

11  
12 2. The Legislature finds and declares that:

13 a. Individuals who are deaf or hard of hearing, as a group,  
14 represent an underserved population in many respects, particularly  
15 with regard to access to mental health services.

16 b. Individuals who are deaf or hard of hearing often require  
17 highly specialized mental health services because of communication  
18 barriers and other complex needs.

19 c. Research shows that individuals who are deaf or hard of  
20 hearing are subject to significantly more risks to their mental health  
21 than are individuals who are able to hear, for reasons that include,  
22 but are not limited to, issues involving communication access in  
23 general, deficient communication with family members, educators,  
24 and treating healthcare professionals, and access to appropriate  
25 educational services and culturally affirmative and linguistically  
26 appropriate physical and mental health services.

27 d. Some individuals who are deaf or hard of hearing may have  
28 secondary disabilities that affect the type and manner of the mental  
29 health services the individual needs. For example, individuals who  
30 are deaf and blind often have diverse ways of communicating, such  
31 as through the use of tactile sign language.

32 e. Being deaf or hard of hearing affects the most basic human  
33 needs, including the ability to communicate with other human  
34 beings. Many individuals who are deaf or hard of hearing use sign  
35 language, which may be their primary method of communication,  
36 while other individuals who are deaf or hard of hearing receive  
37 language orally and aurally, with or without visual signs or cues.  
38 However, some individuals who are deaf or hard of hearing lack  
39 any significant language skills, may experience language  
40 deprivation, or both.

41 f. Individuals who are deaf or hard of hearing frequently  
42 possess highly diverse communication skills and experience highly  
43 diverse communication challenges. The nature and timing of a  
44 hearing loss, the success of medical or therapeutic remediation  
45 efforts, and the accessibility of sign language or spoken language at  
46 home, school, and in other settings, each shape the way that hearing  
47 loss affects an individual who is deaf or hard of hearing.

1 g. The communication ability of an individual who is deaf or  
2 hard of hearing can vary widely, and can be affected by factors such  
3 as the individual's innate abilities and the degree to which the  
4 individual has been supported in language acquisition. Some  
5 individuals who are deaf or hard of hearing are multilingual, with  
6 fluency in more than one communication method, while others are  
7 alingual, with fluency in no communication methods. However, it  
8 is not uncommon for individuals who are deaf or hard of hearing to  
9 have poorly developed language skills in both sign language and  
10 spoken language.

11 h. It is essential that individuals who are deaf or hard of  
12 hearing:

13 (1) have access to appropriate mental health services that are  
14 provided in the primary communication method used by the  
15 individual, as determined by the individual's preference, by the  
16 results of an appropriate communication assessment, or both;

17 (2) have access to services provided by mental health  
18 professionals who are fluent in the individual's primary method of  
19 communication, understand the unique nature of being deaf or hard  
20 of hearing, possess the knowledge and training to work effectively  
21 with individuals who are deaf or hard of hearing to provide  
22 culturally affirmative and linguistically appropriate mental health  
23 services, and who can collaborate skillfully with interpreters;

24 (3) have access to mental health professionals who are familiar  
25 with the unique culture and needs of individuals who are deaf or  
26 hard of hearing, as a lack of awareness of the special needs of  
27 individuals who are deaf or hard of hearing or a lack training in  
28 working with individuals who are deaf or hard of hearing can result  
29 in misdiagnosis of a mental health issue;

30 (4) are involved in determining the scope, content, and purpose  
31 of the mental health services they are provided, which services  
32 should be tailored for delivery to the individual who is deaf or hard  
33 of hearing; and

34 (5) have access to mental health services that provide  
35 appropriate one-on-one access to a full continuum of mental health  
36 services, including all modes of therapy and evaluation, as well as  
37 access to specialized mental health services that are consistent with  
38 best practices and use appropriate curricula, staff, and outreach to  
39 support the unique mental health needs of individuals who are deaf  
40 or hard of hearing.

41 i. Individuals who are deaf or hard of hearing should have  
42 access to a resource guide listing the mental health services in this  
43 State that offer the best access and provide the most specialized  
44 mental health services for clients.

45 j. Individuals who are deaf or hard of hearing will benefit from  
46 the development and implementation of State and regional services  
47 designed to address their unique and specialized mental health  
48 needs.

1       3. As used in this act:

2       “Certified mental health professional” means a psychiatrist,  
3 psychologist, advanced practice nurse, therapist, counselor, or  
4 social worker licensed or certified to practice under Title 45 of the  
5 Revised Statutes who is certified by the Division of the Deaf and  
6 Hard of Hearing in the Department of Human Services as: fluent in  
7 one or more primary communication methods; a specialist who is  
8 trained and experienced in working skillfully with interpreters; and  
9 knowledgeable of the cultural needs of clients.

10       “Client” means an individual who is deaf or hard of hearing and  
11 who is in need of mental health services.

12       “Communication skills assessment” means the Sign Language  
13 Proficiency Interview assessment and any other communication  
14 skills assessment approved by the Division of the Deaf and Hard of  
15 Hearing in the Department of Human Services.

16       “Culturally affirmative mental health services” means mental  
17 health services provided by certified mental health professionals  
18 and support staff, which services are sensitive to, and in support of,  
19 the diverse cultural affiliations and needs of clients, including  
20 affiliation with the deaf community and culture.

21       “Deaf” means the condition of having sustained a hearing loss  
22 that is so severe that the individual has difficulty in processing  
23 linguistic information through hearing, regardless of amplification  
24 or other assistive technology, as well as the unique culture,  
25 community, and identity of an individual who is deaf.

26       “English-based manual or sign system” means a sign system that  
27 uses manual signs in English word order, which may include the use  
28 of added affixes that are not present in American Sign Language.

29       “Fluent” means a sign language communication skills assessment  
30 score of “Advanced,” in the case of a certified mental health  
31 professional, and a sign language communication skills assessment  
32 score of “Intermediate Plus,” in the case of other licensed and  
33 nonlicensed support staff working in a mental health setting.

34       “Hard of hearing” means the condition of having sustained a  
35 hearing loss, whether permanent or fluctuating, which hearing loss  
36 may be corrected by amplification or other hearing assistive  
37 technology, but which, regardless of correction, presents challenges  
38 in processing linguistic information through hearing.

39       “Interpreter” means an interpreter certified by the New Jersey  
40 Registry of Interpreters for the Deaf.

41       “Linguistically appropriate mental health services” means the  
42 full continuum of mental health services that are made available in  
43 the method of communication preferred by the client or in the  
44 method of communication that is determined to be most effective  
45 for the individual, based on the results of a communication  
46 assessment.

47       “Method of communication” means any of the following systems  
48 of communication used by clients: American Sign Language; an

1 English-based manual or sign system; a highly visually oriented and  
2 minimal sign language system to communicate, including, but not  
3 limited to, a home-sign-based system, idiosyncratic signs, a sign  
4 system or language of another country, or non-linguistic or semi-  
5 linguistic communication systems designed to meet the needs of  
6 language-deprived or dysfluent individuals; or an oral, aural, or  
7 speech-based sign system.

8 “Oral, aural, or speech-based system” means a communication  
9 system that uses the speech or residual hearing, or both, of an  
10 individual who is deaf or hard of hearing, regardless of technology  
11 or cued assistance.

12 “Primary method of communication” means the method of  
13 communication preferred by an individual who is deaf or hard of  
14 hearing that will be most effective, as determined by the preference  
15 of the individual who is deaf or hard of hearing, by the results of an  
16 appropriate communication assessment, or both.

17 "Telemedicine and telehealth" means the provision of services  
18 using telemedicine and telehealth in accordance with the provisions  
19 of P.L.2017, c.117 (C.45:1-61 et al.).

20

21 4. a. Each certified mental health professional providing  
22 mental health services to a client shall:

23 (1) offer culturally affirmative mental health services and  
24 linguistically appropriate mental health services to clients in the  
25 client’s primary method of communication; and

26 (2) not deny a client access to culturally affirmative mental  
27 health services or linguistically appropriate mental health services  
28 using the client’s primary method of communication due to the  
29 client’s having:

30 (a) residual hearing ability, whether or not supported by  
31 amplification or other hearing assistive technology; or

32 (b) previous experience with another method of communication.

33 b. Nothing in this section shall be construed to:

34 (1) prevent a client from receiving mental health services in  
35 more than one method of communication; or

36 (2) require a client to receive culturally affirmative mental  
37 health services or linguistically appropriate mental health services.

38

39 5. The Division of Mental Health and Addiction Services in the  
40 Department of Human Services, in consultation with the Division of  
41 the Deaf and Hard of Hearing in the Department of Human  
42 Services, shall:

43 a. implement and maintain culturally affirmative mental health  
44 services and linguistically appropriate mental health services for  
45 any client using the client’s primary method of communication;

46 b. recruit, develop, and maintain an adequate number of  
47 certified mental health professionals and other licensed and non-  
48 licensed support staff qualified to work in settings where mental

- 1 health services are provided to clients to ensure the delivery of  
2 culturally affirmative mental health services and linguistically  
3 appropriate mental health services one-on-one to any client in the  
4 client's primary method of communication;
- 5 c. monitor all culturally affirmative mental health services and  
6 linguistically appropriate mental health services to ensure that  
7 clients of all ages are adequately served;
- 8 d. provide adequate supplemental funding to all culturally  
9 affirmative mental health services and linguistically appropriate  
10 mental health services, as well as incentives to promote recruitment  
11 and retention of certified mental health professionals;
- 12 e. establish a certification process for mental health  
13 professionals who meet all standards and guidelines, as determined  
14 by the Division of the Deaf and Hard of Hearing, to provide  
15 culturally affirmative mental health services and linguistically  
16 appropriate mental health services to clients; and
- 17 f. develop and implement strategies for ensuring access to  
18 culturally affirmative mental health services and linguistically  
19 appropriate mental health services by clients in geographic areas  
20 where there is a lack or shortage of certified mental health  
21 professionals, including, but not limited to, the authorization of  
22 treatment:
- 23 (1) provided by certified mental health professionals in  
24 alternative or non-traditional locations; or
- 25 (2) using telemedicine and telehealth or other approved remote  
26 technologies that allow certified mental health professionals to  
27 provide clients with culturally affirmative mental health services  
28 and linguistically appropriate mental health services.
- 29
- 30 6. a. In order to provide culturally affirmative mental health  
31 services and linguistically appropriate mental health services to  
32 clients, the Division of Mental Health and Addiction Services in the  
33 Department of Human Services, in consultation with the Division of  
34 the Deaf and Hard of Hearing in the Department of Human  
35 Services, shall employ a deaf services coordinator, who shall be  
36 responsible for coordinating and overseeing the implementation of  
37 culturally affirmative mental health services and linguistically  
38 appropriate mental health services Statewide.
- 39 b. At a minimum, the deaf services coordinator employed  
40 pursuant to subsection a. of this section shall:
- 41 (1) be competent and have extensive experience in providing  
42 mental health services to clients;
- 43 (2) be fluent in American Sign Language and possess a thorough  
44 understanding of the deaf community and culture;
- 45 (3) have at least three years of experience providing one-on-one  
46 services to clients;
- 47 (4) possess a master's degree or higher in a behavioral health or  
48 clinical field, as well as the skill, knowledge, and experience in

1 adapting and developing policies and procedures based on the  
2 actual service needs of individuals who are deaf or hard of hearing;  
3 and  
4 (5) know and understand applicable State and federal laws  
5 governing the rights of, and services provided to, individuals who  
6 are deaf or hard of hearing.

7 c. The deaf services coordinator employed pursuant to  
8 subsection a. of this section shall:

9 (1) ensure that culturally affirmative mental health services and  
10 linguistically appropriate mental health services are accessible  
11 Statewide and that the provision of appropriate consultation,  
12 training, and technical assistance is accessible to mental health  
13 professionals in various settings, including, but not limited to,  
14 inpatient, outpatient, and residential programs;

15 (2) serve as a professional liaison to other State departments,  
16 divisions, offices, agencies, and boards for the collaboration needed  
17 to maximize the use of State resources and engage in joint planning;

18 (3) develop a model for a Statewide system of care for culturally  
19 affirmative mental health services and linguistically appropriate  
20 mental health services for clients that includes, at a minimum:

21 (a) standards of care for individuals who are deaf or hard of  
22 hearing, including standards for the level of American Sign  
23 Language fluency required to provide care in mental health settings;

24 (b) guidelines to measure the proficiency of a mental health  
25 professional in the methods of communication used by clients; and

26 (c) a partnership with the New Jersey Registry of Interpreters  
27 for the Deaf;

28 (4) collaborate with State and private mental health  
29 professionals throughout the State to assist and ensure compliance  
30 with State and federal laws relating to mental health services for  
31 clients;

32 (5) collect and evaluate clinical and programmatic outcome data  
33 from mental health professionals serving individuals who are deaf  
34 or hard of hearing;

35 (6) distribute funds or grants to public and private mental health  
36 professionals to achieve optimum service delivery within the system  
37 of care;

38 (7) prepare and submit such reports as shall be required by the  
39 Division of Mental Health and Addiction Services and the Division  
40 for the Deaf and Hard of Hearing; and

41 (8) provide clinical and administrative case consultations to  
42 mental health professionals, when appropriate, regarding the  
43 provision of culturally affirmative mental health services and  
44 linguistically appropriate mental health services to clients.

45 d. (1) The deaf services coordinator employed pursuant to  
46 subsection a. of this section shall establish an advisory committee to  
47 make recommendations and provide advice and assistance  
48 concerning the implementation of this section.

1 (2) The advisory committee established pursuant to paragraph  
2 (1) of this subsection shall comprise 10 members appointed by the  
3 Commissioner of Human Services. The membership of the  
4 advisory committee shall include at least six individuals who are  
5 deaf or hard of hearing, at least one parent or legal guardian of an  
6 individual who is deaf or hard of hearing, at least one certified  
7 mental health professional, at least one interpreter, and at least one  
8 educator who is licensed in New Jersey to teach individuals who are  
9 deaf or hard of hearing. The members of the advisory committee  
10 shall serve for a term of two years and shall be eligible for  
11 reappointment to the advisory committee.

12 (3) The deaf services coordinator shall call the first meeting of  
13 the advisory committee no later than 30 days after all 10 members  
14 are appointed to the advisory committee. Thereafter, the advisory  
15 committee shall meet at least quarterly and at the call of the deaf  
16 services coordinator.

17 (4) Members of the advisory committee shall serve without  
18 compensation, but may be reimbursed for travel and other  
19 reasonable expenses incurred in the performance of their duties as  
20 members of the advisory committee, within the limits of funds  
21 made available to the advisory committee for that purpose. To the  
22 extent possible, the deaf services coordinator shall seek to use  
23 technology and other available resources to limit the travel and  
24 related expenses incurred by the members of the advisory  
25 committee.

26

27 7. a. Each client who is admitted for mental health treatment  
28 shall have access to culturally affirmative mental health services  
29 and linguistically appropriate mental health services.

30 b. (1) Each mental health professional who provides mental  
31 health services to clients shall work with the deaf services  
32 coordinator employed pursuant to subsection a. of section 6 of this  
33 act, as appropriate, to ensure that culturally affirmative mental  
34 health services and linguistically appropriate mental health services  
35 are made accessible to clients.

36 (2) Each client shall have access to one-on-one culturally  
37 affirmative mental health services and linguistically appropriate  
38 mental health services from a certified mental health professional  
39 who is fluent in the client's primary method of communication, as  
40 determined by the preference of the client, by the results of an  
41 appropriate communication assessment, or both. If one-on-one  
42 culturally affirmative mental health services and linguistically  
43 appropriate mental health services by a certified mental health  
44 professional are not available within a reasonable geographical area  
45 for a client, as determined by the deaf services coordinator, the  
46 client shall be offered:

47 (a) an appropriate referral to a certified mental health  
48 professional who can provide culturally affirmative mental health



1 services and linguistically appropriate mental health services  
2 through telemedicine and telehealth or other approved remote  
3 technologies; or

4 (b) at no cost to the client, culturally affirmative mental health  
5 services and linguistically appropriate mental health services  
6 through the use of an interpreter. If an interpreter cannot be  
7 physically present in a timely manner, the services of an interpreter  
8 may be offered to the client through telemedicine and telehealth or  
9 other approved remote technologies.

10 (3) If an interpreter is offered to a client, the client may  
11 voluntarily decline to accept or use the mental health services  
12 through the interpreter, without a penalty to the client, and shall be  
13 offered any other assistance and services as are required by State  
14 and federal law, including, but not limited to, the use of a different  
15 interpreter or hearing assistive technology.

16 (4) If a client refuses all culturally affirmative mental health  
17 services and linguistically appropriate mental health services that  
18 are offered, the mental health professional shall:

19 (a) secure from the client a signed waiver of the right to receive  
20 culturally affirmative mental health services and linguistically  
21 appropriate mental health services and include the signed waiver in  
22 the client's records;

23 (b) notify the deaf services coordinator of the client's refusal of  
24 culturally affirmative mental health services and linguistically  
25 appropriate mental health services; and

26 (c) allow the deaf services coordinator to review the culturally  
27 affirmative mental health services and linguistically appropriate  
28 mental health services offered to ensure that the services were  
29 appropriate.

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31 8. The Assistant Commissioner of the Division of Mental  
32 Health and Addiction Services in the Department of Human  
33 Services and the Executive Director of the Division of the Deaf and  
34 Hard of Hearing in the Department of Human Services may adopt  
35 rules and regulations, pursuant to the "Administrative Procedure  
36 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary to  
37 implement the provisions of this act.

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39 9. This act shall take effect 180 days after the date of  
40 enactment, except that the Assistant Commissioner of the Division  
41 of Mental Health and Addiction Services in the Department of  
42 Human Services and the Executive Director of the Division of the  
43 Deaf and Hard of Hearing in the Department of Human Services  
44 may take any administrative action in advance thereof as may be  
45 necessary to implement the provisions of this act.

STATEMENT

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This bill, which is designated as the “Right to Mental Health Care for Individuals who are Deaf or Hard of Hearing Act,” establishes certain requirements concerning the provision of mental health services to individuals who are deaf or hard of hearing, who are referred to in the bill as “clients.”

Specifically, the bill requires that mental health services be provided in a manner that is culturally affirmative and linguistically appropriate, using the client’s primary method of communication. Clients may receive services using more than one method of communication, and will retain the right to refuse services.

The Division of Mental Health and Addiction Services (DMHAS) in the Department of Human Services (DHS), in consultation with the Division of the Deaf and Hard of Hearing (DDHH) in the DHS, will be required to: implement and maintain culturally affirmative and linguistically appropriate mental health services; recruit, develop, and maintain an adequate number of certified mental health professionals and support staff to meet the demand for culturally affirmative and linguistically appropriate mental health services; monitor the services provided to ensure that clients are adequately served; provide adequate funding for services; develop certification criteria for mental health professionals to provide services to clients, as well as incentives to promote professional recruitment and retention; and develop and implement strategies to ensure access to mental health services regardless of geography, which may include the use of telemedicine and other approved remote technologies.

The DMHAS, in consultation with the DDHH, will be required to employ a deaf services coordinator, who will be responsible for coordinating and overseeing the implementation of culturally affirmative and linguistically appropriate mental health services Statewide. Among other things, the coordinator will be required to ensure appropriate mental health services for clients are accessible Statewide in all treatment settings; serve as a liaison throughout State government to maximize the use of State resources and engage in joint planning; develop a model for a Statewide system of care; collaborate with mental health professionals throughout the State to assist and ensure compliance with State and federal laws relating to mental health services for clients; collect and evaluate clinical and programmatic outcome data; distribute funds or grants to achieve optimum service delivery; prepare and submit reports as required by the DMHAS and DDHH; and provide clinical and administrative case consultations support the provision of mental health services to clients.

The deaf services coordinator will be required to establish an advisory committee to make recommendations and provide advice and assistance concerning the implementation of the bill.