

[First Reprint]

SENATE, No. 1067

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

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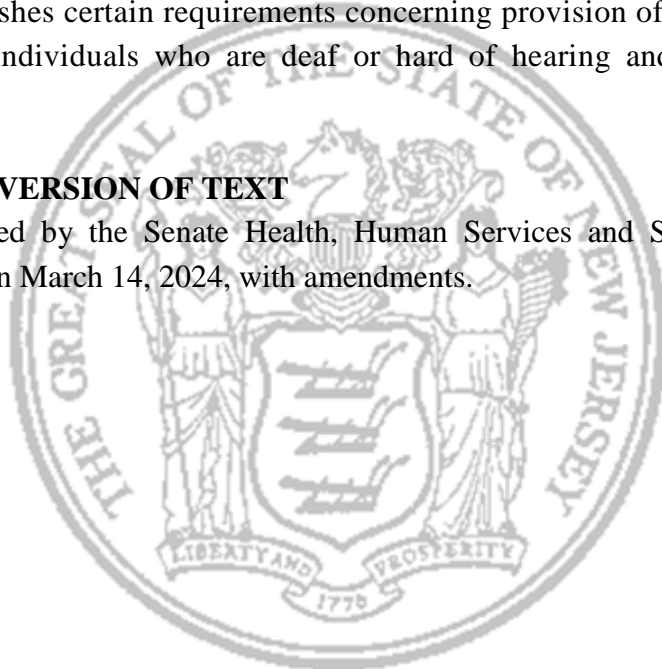
Senators Burgess, Diegnan, Singer, McKnight, Zwicker, Mukherji, Gopal, Polistina, Tiver, Moriarty, Stack, Turner, Pennacchio, Schepisi, Holzapfel, Burzichelli, Space, Timberlake, Amato, O'Scanlon, Pou, Henry, A.M.Bucco and McKeon

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 and appropriates funds.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on March 14, 2024, with amendments.



(Sponsorship Updated As Of: 9/12/2024)

1 AN ACT concerning access to mental health services for people who
2 are deaf and hard of hearing ¹**[and]** ¹ supplementing Title 30 of
3 the Revised Statutes ¹, and making an appropriation¹.
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

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 underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted March 14, 2024.

1 efforts, and the accessibility of sign language or spoken language at
2 home, school, and in other settings, each shape the way that hearing
3 loss affects an individual who is deaf or hard of hearing.

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

14 h. It is essential that individuals who are deaf or hard of
15 hearing:

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

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

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

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

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

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

1 j. Individuals who are deaf or hard of hearing will benefit from
2 the development and implementation of State and regional services
3 designed to address their unique and specialized mental health
4 needs.

5

6 3. As used in this act:

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

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

17 “Communication skills assessment” means the Sign Language
18 Proficiency Interview assessment and any other communication
19 skills assessment approved by the Division of the Deaf and Hard of
20 Hearing in the Department of Human Services.

21 “Culturally affirmative mental health services” means mental
22 health services provided by certified mental health professionals
23 and support staff, which services are sensitive to, and in support of,
24 the diverse cultural affiliations and needs of clients, including
25 affiliation with the deaf community and culture.

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

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

34 “Fluent” means a sign language communication skills assessment
35 score of “Advanced,” in the case of a certified mental health
36 professional, and a sign language communication skills assessment
37 score of “Intermediate Plus,” in the case of other licensed and
38 nonlicensed support staff working in a mental health setting.

39 “Hard of hearing” means the condition of having sustained a
40 hearing loss, whether permanent or fluctuating, which hearing loss
41 may be corrected by amplification or other hearing assistive
42 technology, but which, regardless of correction, presents challenges
43 in processing linguistic information through hearing.

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

46 “Linguistically appropriate mental health services” means the
47 full continuum of mental health services that are made available in
48 the method of communication preferred by the client or in the

1 method of communication that is determined to be most effective
2 for the individual, based on the results of a communication
3 assessment.

4 “Method of communication” means any of the following systems
5 of communication used by clients: American Sign Language; an
6 English-based manual or sign system; a highly visually oriented and
7 minimal sign language system to communicate, including, but not
8 limited to, a home-sign-based system, idiosyncratic signs, a sign
9 system or language of another country, or non-linguistic or semi-
10 linguistic communication systems designed to meet the needs of
11 language-deprived or dysfluent individuals; or an oral, aural, or
12 speech-based sign system.

13 “Oral, aural, or speech-based system” means a communication
14 system that uses the speech or residual hearing, or both, of an
15 individual who is deaf or hard of hearing, regardless of technology
16 or cued assistance.

17 “Primary method of communication” means the method of
18 communication preferred by an individual who is deaf or hard of
19 hearing that will be most effective, as determined by the preference
20 of the individual who is deaf or hard of hearing, by the results of an
21 appropriate communication assessment, or both.

22 “Telemedicine and telehealth” means the provision of services
23 using telemedicine and telehealth in accordance with the provisions
24 of P.L.2017, c.117 (C.45:1-61 et al.).

25

26 4. a. Each certified mental health professional providing
27 mental health services to a client shall:

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

31 (2) not deny a client access to culturally affirmative mental
32 health services or linguistically appropriate mental health services
33 using the client’s primary method of communication due to the
34 client’s having:

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

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

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

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

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

43

44 5. The Division of ¹**【Mental Health and Addiction Services】**
45 the Deaf and Hard of Hearing¹ in the Department of Human
46 Services, in consultation with the Division of ¹**【the Deaf and Hard**
47 **of Hearing】** Mental Health and Addiction Services¹ in the
48 Department of Human Services, shall:

- 1 a. implement and maintain culturally affirmative mental health
2 services and linguistically appropriate mental health services for
3 any client using the client's primary method of communication;
 - 4 b. recruit, develop, and maintain an adequate number of
5 certified mental health professionals and other licensed and non-
6 licensed support staff qualified to work in settings where mental
7 health services are provided to clients to ensure the delivery of
8 culturally affirmative mental health services and linguistically
9 appropriate mental health services one-on-one to any client in the
10 client's primary method of communication;
 - 11 c. monitor all culturally affirmative mental health services and
12 linguistically appropriate mental health services to ensure that
13 clients of all ages are adequately served;
 - 14 d. provide adequate supplemental funding to all culturally
15 affirmative mental health services and linguistically appropriate
16 mental health services, as well as incentives to promote recruitment
17 and retention of certified mental health professionals;
 - 18 e. establish a certification process for mental health
19 professionals who meet all standards and guidelines, as determined
20 by the ¹**[Division of the Deaf and Hard of Hearing]** division¹, to
21 provide culturally affirmative mental health services and
22 linguistically appropriate mental health services to clients; and
 - 23 f. develop and implement strategies for ensuring access to
24 culturally affirmative mental health services and linguistically
25 appropriate mental health services by clients in geographic areas
26 where there is a lack or shortage of certified mental health
27 professionals, including, but not limited to, the authorization of
28 treatment:
 - 29 (1) provided by certified mental health professionals in
30 alternative or non-traditional locations; or
 - 31 (2) using telemedicine and telehealth or other approved remote
32 technologies that allow certified mental health professionals to
33 provide clients with culturally affirmative mental health services
34 and linguistically appropriate mental health services.
- 35
- 36 6. a. In order to provide culturally affirmative mental health
37 services and linguistically appropriate mental health services to
38 clients, the Division of ¹**[Mental Health and Addiction Services]**
39 the Deaf and Hard of Hearing¹ in the Department of Human
40 Services, in consultation with the Division of ¹**[the Deaf and Hard**
41 **of Hearing]** Mental Health and Addiction Services¹ in the
42 Department of Human Services, shall employ a deaf services
43 coordinator, who shall be responsible for coordinating and
44 overseeing the implementation of culturally affirmative mental
45 health services and linguistically appropriate mental health services
46 Statewide.

1 b. At a minimum, the deaf services coordinator employed
2 pursuant to subsection a. of this section shall:

3 (1) be competent and have extensive experience in providing
4 mental health services to clients;

5 (2) be fluent in American Sign Language and possess a thorough
6 understanding of the deaf community and culture;

7 (3) have at least three years of experience providing one-on-one
8 services to clients;

9 (4) possess a master's degree or higher in a behavioral health or
10 clinical field, as well as the skill, knowledge, and experience in
11 adapting and developing policies and procedures based on the
12 actual service needs of individuals who are deaf or hard of hearing;
13 and

14 (5) know and understand applicable State and federal laws
15 governing the rights of, and services provided to, individuals who
16 are deaf or hard of hearing.

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

19 (1) ensure that culturally affirmative mental health services and
20 linguistically appropriate mental health services are accessible
21 Statewide and that the provision of appropriate consultation,
22 training, and technical assistance is accessible to mental health
23 professionals in various settings, including, but not limited to,
24 inpatient, outpatient, and residential programs;

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

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

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

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

36 (c) a partnership with the New Jersey Registry of Interpreters
37 for the Deaf;

38 (4) collaborate with State and private mental health
39 professionals throughout the State to assist and ensure compliance
40 with State and federal laws relating to mental health services for
41 clients;

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

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

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

4 (8) provide clinical and administrative case consultations to
5 mental health professionals, when appropriate, regarding the
6 provision of culturally affirmative mental health services and
7 linguistically appropriate mental health services to clients.

8 d. (1) The deaf services coordinator employed pursuant to
9 subsection a. of this section shall establish an advisory committee to
10 make recommendations and provide advice and assistance
11 concerning the implementation of this section.

12 (2) The advisory committee established pursuant to paragraph
13 (1) of this subsection shall comprise 10 members appointed by the
14 Commissioner of Human Services. The membership of the
15 advisory committee shall include at least six individuals who are
16 deaf or hard of hearing, at least one parent or legal guardian of an
17 individual who is deaf or hard of hearing, at least one certified
18 mental health professional, at least one interpreter, and at least one
19 educator who is licensed in New Jersey to teach individuals who are
20 deaf or hard of hearing. The members of the advisory committee
21 shall serve for a term of two years and shall be eligible for
22 reappointment to the advisory committee.

23 (3) The deaf services coordinator shall call the first meeting of
24 the advisory committee no later than 30 days after all 10 members
25 are appointed to the advisory committee. Thereafter, the advisory
26 committee shall meet at least quarterly and at the call of the deaf
27 services coordinator.

28 (4) Members of the advisory committee shall serve without
29 compensation, but may be reimbursed for travel and other
30 reasonable expenses incurred in the performance of their duties as
31 members of the advisory committee, within the limits of funds
32 made available to the advisory committee for that purpose. To the
33 extent possible, the deaf services coordinator shall seek to use
34 technology and other available resources to limit the travel and
35 related expenses incurred by the members of the advisory
36 committee.

37

38 7. a. Each client who is admitted for mental health treatment
39 shall have access to culturally affirmative mental health services
40 and linguistically appropriate mental health services.

41 b. (1) Each mental health professional who provides mental
42 health services to clients shall work with the deaf services
43 coordinator employed pursuant to subsection a. of section 6 of this
44 act, as appropriate, to ensure that culturally affirmative mental
45 health services and linguistically appropriate mental health services
46 are made accessible to clients.

47 (2) Each client shall have access to one-on-one culturally
48 affirmative mental health services and linguistically appropriate

1 mental health services from a certified mental health professional
2 who is fluent in the client's primary method of communication, as
3 determined by the preference of the client, by the results of an
4 appropriate communication assessment, or both. If one-on-one
5 culturally affirmative mental health services and linguistically
6 appropriate mental health services by a certified mental health
7 professional are not available within a reasonable geographical area
8 for a client, as determined by the deaf services coordinator, the
9 client shall be offered:

10 (a) an appropriate referral to a certified mental health
11 professional who can provide culturally affirmative mental health
12 services and linguistically appropriate mental health services
13 through telemedicine and telehealth or other approved remote
14 technologies; or

15 (b) at no cost to the client, culturally affirmative mental health
16 services and linguistically appropriate mental health services
17 through the use of an interpreter. If an interpreter cannot be
18 physically present in a timely manner, the services of an interpreter
19 may be offered to the client through telemedicine and telehealth or
20 other approved remote technologies.

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

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

30 (a) secure from the client a signed waiver of the right to receive
31 culturally affirmative mental health services and linguistically
32 appropriate mental health services and include the signed waiver in
33 the client's records;

34 (b) notify the deaf services coordinator of the client's refusal of
35 culturally affirmative mental health services and linguistically
36 appropriate mental health services; and

37 (c) allow the deaf services coordinator to review the culturally
38 affirmative mental health services and linguistically appropriate
39 mental health services offered to ensure that the services were
40 appropriate.

41

42 8. The Assistant Commissioner of the Division of Mental
43 Health and Addiction Services in the Department of Human
44 Services and the Executive Director of the Division of the Deaf and
45 Hard of Hearing in the Department of Human Services may adopt
46 rules and regulations, pursuant to the "Administrative Procedure
47 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary to
48 implement the provisions of this act.

1 ¹9. There is appropriated from the General Fund to the Division
2 of the Deaf and Hard of Hearing in the Department of Human
3 Services such sums as are necessary to employ a deaf services
4 coordinator as required under section 6 of this act.¹

5
6 ¹[9.] 10.¹ This act shall take effect 180 days after the date of
7 enactment, except that the Assistant Commissioner of the Division
8 of Mental Health and Addiction Services in the Department of
9 Human Services and the Executive Director of the Division of the
10 Deaf and Hard of Hearing in the Department of Human Services
11 may take any administrative action in advance thereof as may be
12 necessary to implement the provisions of this act.