

2.11.93 House Human Res.
4/12/93 Amend/No Pass W/H. 3838
FILED 1993

SENATE FILE 220
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 147)

Passed Senate, Date ^(P.583) 3-11-93 Passed House, Date ^(P.1553) 4/22/93
Vote: Ayes 41 Nays 0 Vote: Ayes 98 Nays 1
Approved May 3, 1993
Repealed 47/0
4/26/93 (P.1347)

A BILL FOR

1 An Act relating to deaf and hard-of-hearing persons by changing
2 definitions and the ability to charge certain interpreter fees
3 as costs in a legal action.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 220

1 Section 1. Section 7E.5, subsection 1, paragraph t, Code
2 1993, is amended to read as follows:

3 t. The department of human rights, created in section
4 216A.1, which has primary responsibility for services relating
5 to Latino persons, women, persons with disabilities, community
6 action agencies, criminal and juvenile justice planning, the
7 status of African-Americans, and deaf and hard-of-hearing
8 persons.

9 Sec. 2. Section 34.2, subsection 4, unnumbered paragraph
10 1, Code 1993, is amended to read as follows:

11 A 911 system shall be capable of transmitting requests for
12 law enforcement, fire fighting, and emergency medical and
13 ambulance services to a public safety agency or agencies that
14 provide the requested service at the place where the call
15 originates. A 911 system may also provide for transmitting
16 requests for emergency management, poison control, suicide
17 prevention, and other emergency services. The public safety
18 answering point shall be capable of receiving calls from
19 hearing-impaired deaf and hard-of-hearing persons through a
20 telecommunications device for the deaf. Conferencing
21 capability with counseling, aid to handicapped, and other
22 services as deemed necessary for identifying appropriate
23 emergency response services may be provided by the 911
24 service.

25 Sec. 3. Section 216A.112, unnumbered paragraph 2, Code
26 1993, is amended to read as follows:

27 Terms of office are three years and shall begin and end
28 pursuant to section 69.19. The commission shall adopt rules
29 concerning programs and services for deaf and hard-of-hearing
30 persons.

31 Sec. 4. Section 216A.114, Code 1993, is amended to read as
32 follows:

33 216A.114 DUTIES OF COMMISSION.

34 The commission shall:

35 1. Interpret to communities and to interested persons the

1 needs of the deaf and hard-of-hearing and how their needs may
2 be met through the use of service providers.

3 2. Obtain without additional cost to the state available
4 office space in public and private agencies which service
5 providers may utilize in carrying out service projects for
6 deaf and hard-of-hearing persons. However, if space is not
7 available in a specific service area without additional cost
8 to the state, the commission may obtain other office space
9 which is ~~colocated~~ located with other public or private
10 agencies. The space shall be obtained at the lowest cost
11 available and the terms of the lease must be approved by the
12 director of the department of general services.

13 3. Establish service projects for deaf and hard-of-hearing
14 persons throughout the state. Projects shall not be
15 undertaken by service providers for compensation which would
16 duplicate existing services when those services are available
17 to deaf people and hard-of-hearing persons through paid
18 interpreters or other persons able to communicate with deaf
19 people and hard-of-hearing persons.

20 As used in this section, "service projects" includes
21 interpretation services for persons who are deaf and hard-of-
22 hearing, referral and counseling services for deaf people and
23 hard-of-hearing persons in the areas of adult education, legal
24 aid, employment, medical, finance, housing, recreation, and
25 other personal assistance and social programs.

26 "Service providers" are persons who, for compensation or on
27 a volunteer basis, carry out service projects.

28 4. Identify agencies, both public and private, which
29 provide community services, evaluate the extent to which they
30 make services available to deaf people and hard-of-hearing
31 persons, and cooperate with the agencies in coordinating and
32 extending these services.

33 5. Collect information concerning deafness or hearing loss
34 and provide for the dissemination of the information.

35 6. Provide for the mutual exchange of ideas and

1 information on services for deaf people and hard-of-hearing
2 persons between federal, state, and local governmental
3 agencies and private organizations and individuals.

4 7. Pursuant to section 216A.2, be responsible for
5 budgeting and personnel decisions for the commission and
6 division.

7 Sec. 5. Section 216C.10, Code 1993, is amended to read as
8 follows:

9 216C.10 USE OF HEARING DOG.

10 A deaf or hard-of-hearing person has the right to be
11 accompanied by a hearing dog, under control and especially
12 trained at a recognized training facility to assist the deaf
13 or hard-of-hearing by responding to sound, in any place listed
14 in sections 216C.3 and 216C.4 without being required to make
15 additional payment for the hearing dog. A landlord shall
16 waive lease restrictions on the keeping of dogs for a deaf or
17 hard-of-hearing person with a hearing dog. The deaf or hard-
18 of-hearing person is liable for damage done to any premise or
19 facility by a hearing dog.

20 A person who denies or interferes with the right of a deaf
21 or hard-of-hearing person under this section is, upon
22 conviction, guilty of a simple misdemeanor.

23 Sec. 6. Section 477C.1, Code 1993, is amended to read as
24 follows:

25 477C.1 DUAL PARTY RELAY SERVICE -- PURPOSE.

26 The general assembly finds that the provision of a
27 statewide dual party relay service will further the public
28 interest and protect the health, safety, and welfare of the
29 people of Iowa through an increase in the usefulness and
30 availability of the telephone system. Many deaf, hearing-
31 impaired hard-of-hearing, and speech-impaired persons are not
32 able to utilize the telephone system without this type of
33 service. Therefore, it is the purpose of this chapter to
34 enable the orderly development, operation, promotion, and
35 funding of a statewide dual party relay service.

1 Sec. 7. Section 622B.1, subsection 1, Code 1993, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 1. As used in this chapter, unless the context otherwise
5 requires:

6 a. "Administrative agency" means any department, board,
7 commission, or agency of the state or any political
8 subdivision of the state.

9 b. "Deaf person" means an individual who uses sign
10 language as the person's primary mode of communication and who
11 may use interpreters to facilitate communication.

12 c. "Hard-of-hearing person" means an individual who is
13 unable to hear and distinguish sounds easily within normal
14 conversational range and who may use speechreading, assistive
15 listening devices, or oral interpreters to facilitate
16 communication.

17 d. "Interpreter" means an oral interpreter or sign
18 language interpreter.

19 e. "Oral interpreter" means an interpreter who is fluent
20 in transliterating, paraphrasing, and voicing.

21 f. "Sign language interpreter" means an interpreter who is
22 able to interpret from sign language to English and English to
23 sign language.

24 Sec. 8. Section 622B.2, Code 1993, is amended to read as
25 follows:

26 622B.2 INTERPRETER APPOINTED.

27 If a ~~hearing-impaired~~ deaf or hard-of-hearing person is a
28 party to, or a witness at, or a participant in a proceeding
29 before a grand jury, court, or administrative agency of this
30 state, the court or administrative agency shall appoint an
31 interpreter without expense to the ~~hearing-impaired~~ deaf or
32 hard-of-hearing person to interpret or translate the
33 proceedings to the ~~hearing-impaired~~ deaf or hard-of-hearing
34 person and to interpret or translate the person's testimony
35 unless the ~~hearing-impaired~~ deaf or hard-of-hearing person

1 waives the right to an interpreter.

2 Sec. 9. Section 622B.3, Code 1993, is amended to read as
3 follows:

4 622B.3 NOTICE OF NEED.

5 When a hearing-impaired deaf or hard-of-hearing person is
6 entitled to an interpreter, the hearing-impaired deaf or hard-
7 of-hearing person shall notify the presiding official within
8 three days after receiving notice of the proceeding, stating
9 the disability and requesting the services of an interpreter.
10 If the hearing-impaired deaf or hard-of-hearing person
11 receives notification of an appearance less than five days
12 prior to the proceeding, that person shall notify the
13 presiding official requesting an interpreter as soon as
14 practicable or may apply for a continuance until an
15 interpreter is appointed.

16 Sec. 10. Section 622B.4, Code 1993, is amended to read as
17 follows:

18 622B.4 LIST.

19 The division of deaf services of the department of human
20 rights shall prepare and continually update a listing of
21 qualified and available interpreters. The courts and
22 administrative agencies shall maintain a directory of
23 qualified interpreters for hearing-impaired deaf and hard-of-
24 hearing persons as furnished by the department of human
25 rights. The division of deaf services shall maintain
26 information on the qualifications of interpreters, which
27 information is confidential except to a court, administrative
28 agency, or interested parties to an action using the services
29 of an interpreter.

30 Sec. 11. Section 622B.5, Code 1993, is amended to read as
31 follows:

32 622B.5 OATH.

33 Before participating in a proceeding, an interpreter shall
34 take an oath that the interpreter will make a true
35 interpretation in an understandable manner to the person for

1 whom the interpreter is appointed and that the interpreter
2 will interpret or translate the statements of the hearing
3 impaired deaf or hard-of-hearing person to the best of the
4 interpreter's skills and judgment.

5 Sec. 12. Section 622B.6, Code 1993, is amended to read as
6 follows:

7 622B.6 PRIVILEGED.

8 Communication between a hearing-impaired deaf or hard-of-
9 hearing person and a third party which is privileged under
10 chapter 622 in which the interpreter participates as an
11 interpreter shall be privileged to the interpreter.

12 Sec. 13. Section 622B.7, Code 1993, is amended to read as
13 follows:

14 622B.7 FEE.

15 An interpreter appointed under this chapter is entitled to
16 a reasonable fee and expenses as determined by the rules
17 applying to that proceeding. This schedule shall be furnished
18 to all courts and administrative agencies and maintained by
19 them. If the interpreter is appointed by the court, the fee
20 and expenses shall be paid by the county and if the
21 interpreter is appointed by an administrative agency, the fee
22 and expenses shall be paid out of funds available to the
23 administrative agency. ~~If a hearing-impaired person is not a~~
24 ~~party to the action, the fees and expenses of an interpreter~~
25 ~~shall be charged to costs.~~

26 Sec. 14. Section 804.31, Code 1993, is amended to read as
27 follows:

28 804.31 ARREST OF HEARING-IMPAIRED DEAF OR HARD-OF-HEARING
29 PERSON -- USE OF INTERPRETERS -- FEE.

30 When a person is detained for questioning or arrested for
31 an alleged violation of a law or ordinance and there is reason
32 to believe that the person is hearing-impaired deaf or hard-
33 of-hearing, the peace officer making the arrest or taking the
34 person into custody or any other officer detaining the person
35 shall determine if the person is a hearing-impaired deaf or

1 hard-of-hearing person as defined in section 622B.1. If the
2 officer so determines, the officer, at the earliest possible
3 time and prior to commencing any custodial interrogation of
4 the person, shall procure a qualified interpreter in
5 accordance with section 622B.2 and the rules adopted by the
6 supreme court under section 622B.1 unless the hearing-impaired
7 deaf or hard-of-hearing person knowingly, voluntarily, and
8 intelligently waives the right to an interpreter in writing by
9 executing a form prescribed by the department of human rights
10 and the Iowa county attorneys association. The interpreter
11 shall interpret the officer's warnings of constitutional
12 rights and protections and all other warnings, statements, and
13 questions spoken or written by any officer, attorney, or other
14 person present and all statements and questions communicated
15 in sign language by the hearing-impaired deaf or hard-of-
16 hearing person.

17 This section does not prohibit the request for and
18 administration of a preliminary breath screening test or the
19 request for and administration of a chemical test of a body
20 substance or substances under chapter 321J prior to the
21 arrival of a qualified interpreter for a hearing-impaired deaf
22 or hard-of-hearing person who is believed to have committed a
23 violation of section 321J.2. However, upon the arrival of the
24 interpreter the officer who requested the chemical test shall
25 explain through the interpreter the reason for the testing,
26 the consequences of the person's consent or refusal, and the
27 ramifications of the results of the test, if one was
28 administered.

29 When an interpreter is not readily available and the
30 hearing-impaired deaf or hard-of-hearing person's identity is
31 known, the person may be released by the law enforcement
32 agency into the temporary custody of a reliable family member
33 or other reliable person to await the arrival of the
34 interpreter, if the person is eligible for release on bail and
35 is not believed to be an immediate threat to the person's own

1 safety or the safety of others.

2 An answer, statement, or admission, oral or written, made
3 by a hearing-impaired deaf or hard-of-hearing person in reply
4 to a question of a law enforcement officer or any other person
5 having a prosecutorial function in a criminal proceeding is
6 not admissible in court and shall not be used against the
7 hearing-impaired deaf or hard-of-hearing person if that
8 answer, statement, or admission was not made or elicited
9 through a qualified interpreter, unless the hearing-impaired
10 deaf or hard-of-hearing person had waived the right to an
11 interpreter pursuant to this section. In the event of a
12 waiver and criminal proceeding, the court shall determine
13 whether the waiver and any subsequent answer, statement, or
14 admission made by the hearing-impaired deaf or hard-of-hearing
15 person were knowingly, voluntarily, and intelligently made.

16 When communication occurs with a person through an
17 interpreter pursuant to this section, all questions or
18 statements and responses shall be relayed through the
19 interpreter. The role of the interpreter is to facilitate
20 communication between the hearing and hearing-impaired deaf or
21 hard-of-hearing parties. An interpreter shall not be
22 compelled to answer any question or respond to any statement
23 that serves to violate that role at the time of questioning or
24 arrest or at any subsequent administrative or judicial
25 proceeding.

26 An interpreter procured under this section shall be paid a
27 reasonable fee and expenses by the governmental subdivision
28 funding the law enforcement agency that procured the
29 interpreter.

30

EXPLANATION

31 For the purpose of providing services for deaf and hard-of-
32 hearing persons and for the provisions of interpreters, this
33 bill changes the definition of "deaf", eliminates the
34 definition of and reference to "hearing-impaired" persons, and
35 provides a new term and definition for "hard-of-hearing"

1 persons. The bill also defines interpreters as "oral
2 interpreters" and "sign language interpreters". The bill then
3 makes appropriate changes in the Code to reflect these changes
4 and terms. The bill also eliminates the requirement that the
5 fees and expenses of an interpreter for a hearing-impaired
6 person not a party to an action shall be charged as costs in
7 chapter 622B.

SENATE FILE 220

H-3838

1 Amend Senate File 220, as passed by the Senate, as
2 follows:

3 1. Page 4, line 13, by striking the word
4 "easily".

5 2. Page 4, line 14, by striking the word "may"
6 and inserting the following: "needs to".

Adopted 4/22/93 (P. 1552) BY COMMITTEE ON HUMAN RESOURCES
H-3838 FILED APRIL 12, 1993 PLASIER of Sioux, Chairperson

HOUSE AMENDMENT TO
SENATE FILE 220

S-3603

1 Amend Senate File 220, as passed by the Senate, as
2 follows:

3 1. Page 4, line 13, by striking the word
4 "easily".

5 2. Page 4, line 14, by striking the word "may"
6 and inserting the following: "needs to".

RECEIVED FROM THE HOUSE

S-3603 FILED APRIL 23, 1993

Senate Concurred 4/26/93 (P. 1347)

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Szymoniak, et.

Suna

Kramer

SSB 147

HUMAN RESOURCES

SENATE/HOUSE FILE ~~147~~ 220

BY (PROPOSED DEPARTMENT OF HUMAN RIGHTS BILL)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to deaf and hard-of-hearing persons by changing
2 definitions and the ability to charge certain interpreter fees
3 as costs in a legal action.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 7E.5, subsection 1, paragraph t, Code
2 1993, is amended to read as follows:

3 t. The department of human rights, created in section
4 216A.1, which has primary responsibility for services relating
5 to Latino persons, women, persons with disabilities, community
6 action agencies, criminal and juvenile justice planning, the
7 status of African-Americans, and deaf and hard-of-hearing
8 persons.

9 Sec. 2. Section 34.2, subsection 4, unnumbered paragraph
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12 law enforcement, fire fighting, and emergency medical and
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15 originates. A 911 system may also provide for transmitting
16 requests for emergency management, poison control, suicide
17 prevention, and other emergency services. The public safety
18 answering point shall be capable of receiving calls from
19 hearing-impaired deaf and hard-of-hearing persons through a
20 telecommunications device for the deaf. Conferencing
21 capability with counseling, aid to handicapped, and other
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23 emergency response services may be provided by the 911
24 service.

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26 1993, is amended to read as follows:

27 Terms of office are three years and shall begin and end
28 pursuant to section 69.19. The commission shall adopt rules
29 concerning programs and services for deaf and hard-of-hearing
30 persons.

31 Sec. 4. Section 216A.114, Code 1993, is amended to read as
32 follows:

33 216A.114 DUTIES OF COMMISSION.

34 The commission shall:

35 1. Interpret to communities and to interested persons the

1 needs of the deaf and hard-of-hearing and how their needs may
2 be met through the use of service providers.

3 2. Obtain without additional cost to the state available
4 office space in public and private agencies which service
5 providers may utilize in carrying out service projects for
6 deaf and hard-of-hearing persons. However, if space is not
7 available in a specific service area without additional cost
8 to the state, the commission may obtain other office space
9 which is ~~colocated~~ located with other public or private
10 agencies. The space shall be obtained at the lowest cost
11 available and the terms of the lease must be approved by the
12 director of the department of general services.

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14 persons throughout the state. Projects shall not be
15 undertaken by service providers for compensation which would
16 duplicate existing services when those services are available
17 to deaf people and hard-of-hearing persons through paid
18 interpreters or other persons able to communicate with deaf
19 people and hard-of-hearing persons.

20 As used in this section, "service projects" includes
21 interpretation services for persons who are deaf and hard-of-
22 hearing, referral and counseling services for deaf people and
23 hard-of-hearing persons in the areas of adult education, legal
24 aid, employment, medical, finance, housing, recreation, and
25 other personal assistance and social programs.

26 "Service providers" are persons who, for compensation or on
27 a volunteer basis, carry out service projects.

28 4. Identify agencies, both public and private, which
29 provide community services, evaluate the extent to which they
30 make services available to deaf people and hard-of-hearing
31 persons, and cooperate with the agencies in coordinating and
32 extending these services.

33 5. Collect information concerning deafness or hearing loss
34 and provide for the dissemination of the information.

35 6. Provide for the mutual exchange of ideas and

1 information on services for deaf people and hard-of-hearing
2 persons between federal, state, and local governmental
3 agencies and private organizations and individuals.

4 7. Pursuant to section 216A.2, be responsible for
5 budgeting and personnel decisions for the commission and
6 division.

7 Sec. 5. Section 216C.10, Code 1993, is amended to read as
8 follows:

9 216C.10 USE OF HEARING DOG.

10 A deaf or hard-of-hearing person has the right to be
11 accompanied by a hearing dog, under control and especially
12 trained at a recognized training facility to assist the deaf
13 or hard-of-hearing by responding to sound, in any place listed
14 in sections 216C.3 and 216C.4 without being required to make
15 additional payment for the hearing dog. A landlord shall
16 waive lease restrictions on the keeping of dogs for a deaf or
17 hard-of-hearing person with a hearing dog. The deaf or hard-
18 of-hearing person is liable for damage done to any premise or
19 facility by a hearing dog.

20 A person who denies or interferes with the right of a deaf
21 or hard-of-hearing person under this section is, upon
22 conviction, guilty of a simple misdemeanor.

23 Sec. 6. Section 477C.1, Code 1993, is amended to read as
24 follows:

25 477C.1 DUAL PARTY RELAY SERVICE -- PURPOSE.

26 The general assembly finds that the provision of a
27 statewide dual party relay service will further the public
28 interest and protect the health, safety, and welfare of the
29 people of Iowa through an increase in the usefulness and
30 availability of the telephone system. Many deaf, hearing-
31 impaired hard-of-hearing, and speech-impaired persons are not
32 able to utilize the telephone system without this type of
33 service. Therefore, it is the purpose of this chapter to
34 enable the orderly development, operation, promotion, and
35 funding of a statewide dual party relay service.

1 Sec. 7. Section 622B.1, subsection 1, Code 1993, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 1. As used in this chapter, unless the context otherwise
5 requires:

6 a. "Administrative agency" means any department, board,
7 commission, or agency of the state or any political
8 subdivision of the state.

9 b. "Deaf person" means an individual who uses sign
10 language as the person's primary mode of communication and who
11 may use interpreters to facilitate communication.

12 c. "Hard-of-hearing person" means an individual who is
13 unable to hear and distinguish sounds easily within normal
14 conversational range and who may use speechreading, assistive
15 listening devices, or oral interpreters to facilitate
16 communication.

17 d. "Interpreter" means an oral interpreter or sign
18 language interpreter.

19 e. "Oral interpreter" means an interpreter who is fluent
20 in transliterating, paraphrasing, and voicing.

21 f. "Sign language interpreter" means an interpreter who is
22 able to interpret from sign language to English and English to
23 sign language.

24 Sec. 8. Section 622B.2, Code 1993, is amended to read as
25 follows:

26 622B.2 INTERPRETER APPOINTED.

27 If a hearing-impaired deaf or hard-of-hearing person is a
28 party to, or a witness at, or a participant in a proceeding
29 before a grand jury, court, or administrative agency of this
30 state, the court or administrative agency shall appoint an
31 interpreter without expense to the hearing-impaired deaf or
32 hard-of-hearing person to interpret or translate the
33 proceedings to the hearing-impaired deaf or hard-of-hearing
34 person and to interpret or translate the person's testimony
35 unless the hearing-impaired deaf or hard-of-hearing person

1 waives the right to an interpreter.

2 Sec. 9. Section 622B.3, Code 1993, is amended to read as
3 follows:

4 622B.3 NOTICE OF NEED.

5 When a hearing-impaired deaf or hard-of-hearing person is
6 entitled to an interpreter, the hearing-impaired deaf or hard-
7 of-hearing person shall notify the presiding official within
8 three days after receiving notice of the proceeding, stating
9 the disability and requesting the services of an interpreter.
10 If the hearing-impaired deaf or hard-of-hearing person
11 receives notification of an appearance less than five days
12 prior to the proceeding, that person shall notify the
13 presiding official requesting an interpreter as soon as
14 practicable or may apply for a continuance until an
15 interpreter is appointed.

16 Sec. 10. Section 622B.4, Code 1993, is amended to read as
17 follows:

18 622B.4 LIST.

19 The division of deaf services of the department of human
20 rights shall prepare and continually update a listing of
21 qualified and available interpreters. The courts and
22 administrative agencies shall maintain a directory of
23 qualified interpreters for hearing-impaired deaf and hard-of-
24 hearing persons as furnished by the department of human
25 rights. The division of deaf services shall maintain
26 information on the qualifications of interpreters, which
27 information is confidential except to a court, administrative
28 agency, or interested parties to an action using the services
29 of an interpreter.

30 Sec. 11. Section 622B.5, Code 1993, is amended to read as
31 follows:

32 622B.5 OATH.

33 Before participating in a proceeding, an interpreter shall
34 take an oath that the interpreter will make a true
35 interpretation in an understandable manner to the person for

1 whom the interpreter is appointed and that the interpreter
2 will interpret or translate the statements of the hearing
3 impaired deaf or hard-of-hearing person to the best of the
4 interpreter's skills and judgment.

5 Sec. 12. Section 622B.6, Code 1993, is amended to read as
6 follows:

7 622B.6 PRIVILEGED.

8 Communication between a hearing-impaired deaf or hard-of-
9 hearing person and a third party which is privileged under
10 chapter 622 in which the interpreter participates as an
11 interpreter shall be privileged to the interpreter.

12 Sec. 13. Section 622B.7, Code 1993, is amended to read as
13 follows:

14 622B.7 FEE.

15 An interpreter appointed under this chapter is entitled to
16 a reasonable fee and expenses as determined by the rules
17 applying to that proceeding. This schedule shall be furnished
18 to all courts and administrative agencies and maintained by
19 them. If the interpreter is appointed by the court, the fee
20 and expenses shall be paid by the county and if the
21 interpreter is appointed by an administrative agency, the fee
22 and expenses shall be paid out of funds available to the
23 administrative agency. ~~if-a-hearing-impaired-person-is-not-a~~
24 ~~party-to-the-action, the fees and expenses of an interpreter~~
25 ~~shall be charged to costs.~~

26 Sec. 14. Section 804.31, Code 1993, is amended to read as
27 follows:

28 804.31 ARREST OF HEARING-IMPAIRED DEAF OR HARD-OF-HEARING
29 PERSON -- USE OF INTERPRETERS -- FEE.

30 When a person is detained for questioning or arrested for
31 an alleged violation of a law or ordinance and there is reason
32 to believe that the person is hearing-impaired deaf or hard-
33 of-hearing, the peace officer making the arrest or taking the
34 person into custody or any other officer detaining the person
35 shall determine if the person is a hearing-impaired deaf or

1 hard-of-hearing person as defined in section 622B.1. If the
2 officer so determines, the officer, at the earliest possible
3 time and prior to commencing any custodial interrogation of
4 the person, shall procure a qualified interpreter in
5 accordance with section 622B.2 and the rules adopted by the
6 supreme court under section 622B.1 unless the hearing-impaired
7 deaf or hard-of-hearing person knowingly, voluntarily, and
8 intelligently waives the right to an interpreter in writing by
9 executing a form prescribed by the department of human rights
10 and the Iowa county attorneys association. The interpreter
11 shall interpret the officer's warnings of constitutional
12 rights and protections and all other warnings, statements, and
13 questions spoken or written by any officer, attorney, or other
14 person present and all statements and questions communicated
15 in sign language by the hearing-impaired deaf or hard-of-
16 hearing person.

17 This section does not prohibit the request for and
18 administration of a preliminary breath screening test or the
19 request for and administration of a chemical test of a body
20 substance or substances under chapter 321J prior to the
21 arrival of a qualified interpreter for a hearing-impaired deaf
22 or hard-of-hearing person who is believed to have committed a
23 violation of section 321J.2. However, upon the arrival of the
24 interpreter the officer who requested the chemical test shall
25 explain through the interpreter the reason for the testing,
26 the consequences of the person's consent or refusal, and the
27 ramifications of the results of the test, if one was
28 administered.

29 When an interpreter is not readily available and the
30 hearing-impaired deaf or hard-of-hearing person's identity is
31 known, the person may be released by the law enforcement
32 agency into the temporary custody of a reliable family member
33 or other reliable person to await the arrival of the
34 interpreter, if the person is eligible for release on bail and
35 is not believed to be an immediate threat to the person's own

1 safety or the safety of others.

2 An answer, statement, or admission, oral or written, made
3 by a hearing-impaired deaf or hard-of-hearing person in reply
4 to a question of a law enforcement officer or any other person
5 having a prosecutorial function in a criminal proceeding is
6 not admissible in court and shall not be used against the
7 hearing-impaired deaf or hard-of-hearing person if that
8 answer, statement, or admission was not made or elicited
9 through a qualified interpreter, unless the hearing-impaired
10 deaf or hard-of-hearing person had waived the right to an
11 interpreter pursuant to this section. In the event of a
12 waiver and criminal proceeding, the court shall determine
13 whether the waiver and any subsequent answer, statement, or
14 admission made by the hearing-impaired deaf or hard-of-hearing
15 person were knowingly, voluntarily, and intelligently made.

16 When communication occurs with a person through an
17 interpreter pursuant to this section, all questions or
18 statements and responses shall be relayed through the
19 interpreter. The role of the interpreter is to facilitate
20 communication between the hearing and hearing-impaired deaf or
21 hard-of-hearing parties. An interpreter shall not be
22 compelled to answer any question or respond to any statement
23 that serves to violate that role at the time of questioning or
24 arrest or at any subsequent administrative or judicial
25 proceeding.

26 An interpreter procured under this section shall be paid a
27 reasonable fee and expenses by the governmental subdivision
28 funding the law enforcement agency that procured the
29 interpreter.

30

EXPLANATION

31 For the purpose of providing services for deaf and hard-of-
32 hearing persons and for the provisions of interpreters, this
33 bill changes the definition of "deaf", eliminates the
34 definition of and reference to "hearing-impaired" persons, and
35 provides a new term and definition for "hard-of-hearing"

1 persons. The bill also defines interpreters as "oral
2 interpreters" and "sign language interpreters". The bill then
3 makes appropriate changes in the Code to reflect these changes
4 and terms. The bill also eliminates the requirement that the
5 fees and expenses of an interpreter for a hearing-impaired
6 person not a party to an action shall be charged as costs in
7 chapter 622B.

8 BACKGROUND STATEMENT

9 SUBMITTED BY THE AGENCY

10 In May 1991, the deaf services commission of Iowa (division
11 of deaf services) added hard-of-hearing persons as an
12 additional constituency to be served by the agency. At that
13 time, a legislative committee comprised of commission members
14 analyzed and made recommendations on revisions of various
15 definitions in the Code of Iowa. The revised definitions are
16 for deaf persons, hard-of-hearing persons, sign language
17 interpreters, and oral interpreters.

18 Modifications were also made to sections assuring
19 compliance and consistency with federal law, including the
20 federal Americans with Disabilities Act.

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SENATE FILE 220

AN ACT
RELATING TO DEAF AND HARD-OF-HEARING PERSONS BY CHANGING
DEFINITIONS AND THE ABILITY TO CHARGE CERTAIN INTERPRETER
FEES AS COSTS IN A LEGAL ACTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 7E.5, subsection 1, paragraph t, Code 1993, is amended to read as follows:

t. The department of human rights, created in section 216A.1, which has primary responsibility for services relating to Latino persons, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of African-Americans, and deaf and hard-of-hearing persons.

Sec. 2. Section 34.2, subsection 4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A 911 system shall be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to a public safety agency or agencies that provide the requested service at the place where the call originates. A 911 system may also provide for transmitting requests for emergency management, poison control, suicide prevention, and other emergency services. The public safety answering point shall be capable of receiving calls from hearing-impaired deaf and hard-of-hearing persons through a telecommunications device for the deaf. Conferencing capability with counseling, aid to handicapped, and other services as deemed necessary for identifying appropriate emergency response services may be provided by the 911 service.

Sec. 3. Section 216A.112, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Terms of office are three years and shall begin and end pursuant to section 69.19. The commission shall adopt rules concerning programs and services for deaf and hard-of-hearing persons.

Sec. 4. Section 216A.114, Code 1993, is amended to read as follows:

216A.114 DUTIES OF COMMISSION.

The commission shall:

1. Interpret to communities and to interested persons the needs of the deaf and hard-of-hearing and how their needs may be met through the use of service providers.

2. Obtain without additional cost to the state available office space in public and private agencies which service providers may utilize in carrying out service projects for deaf and hard-of-hearing persons. However, if space is not available in a specific service area without additional cost to the state, the commission may obtain other office space which is colocated located with other public or private agencies. The space shall be obtained at the lowest cost available and the terms of the lease must be approved by the director of the department of general services.

3. Establish service projects for deaf and hard-of-hearing persons throughout the state. Projects shall not be undertaken by service providers for compensation which would duplicate existing services when those services are available to deaf people and hard-of-hearing persons through paid interpreters or other persons able to communicate with deaf people and hard-of-hearing persons.

As used in this section, "service projects" includes interpretation services for persons who are deaf and hard-of-hearing, referral and counseling services for deaf people and hard-of-hearing persons in the areas of adult education, legal aid, employment, medical, finance, housing, recreation, and other personal assistance and social programs.

"Service providers" are persons who, for compensation or on a volunteer basis, carry out service projects.

4. Identify agencies, both public and private, which provide community services, evaluate the extent to which they make services available to deaf people and hard-of-hearing persons, and cooperate with the agencies in coordinating and extending these services.

5. Collect information concerning deafness or hearing loss and provide for the dissemination of the information.

6. Provide for the mutual exchange of ideas and information on services for deaf people and hard-of-hearing persons between federal, state, and local governmental agencies and private organizations and individuals.

7. Pursuant to section 216A.2, be responsible for budgeting and personnel decisions for the commission and division.

Sec. 5. Section 216C.10, Code 1993, is amended to read as follows:

216C.10 USE OF HEARING DOG.

A deaf or hard-of-hearing person has the right to be accompanied by a hearing dog, under control and especially trained at a recognized training facility to assist the deaf or hard-of-hearing by responding to sound, in any place listed in sections 216C.3 and 216C.4 without being required to make additional payment for the hearing dog. A landlord shall waive lease restrictions on the keeping of dogs for a deaf or hard-of-hearing person with a hearing dog. The deaf or hard-of-hearing person is liable for damage done to any premise or facility by a hearing dog.

A person who denies or interferes with the right of a deaf or hard-of-hearing person under this section is, upon conviction, guilty of a simple misdemeanor.

Sec. 6. Section 477C.1, Code 1993, is amended to read as follows:

477C.1 DUAL PARTY RELAY SERVICE -- PURPOSE.

The general assembly finds that the provision of a statewide dual party relay service will further the public interest and protect the health, safety, and welfare of the people of Iowa through an increase in the usefulness and availability of the telephone system. Many deaf, hearing-impaired hard-of-hearing, and speech-impaired persons are not able to utilize the telephone system without this type of service. Therefore, it is the purpose of this chapter to enable the orderly development, operation, promotion, and funding of a statewide dual party relay service.

Sec. 7. Section 622B.1, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. As used in this chapter, unless the context otherwise requires:

a. "Administrative agency" means any department, board, commission, or agency of the state or any political subdivision of the state.

b. "Deaf person" means an individual who uses sign language as the person's primary mode of communication and who may use interpreters to facilitate communication.

c. "Hard-of-hearing person" means an individual who is unable to hear and distinguish sounds within normal conversational range and who needs to use speechreading, assistive listening devices, or oral interpreters to facilitate communication.

d. "Interpreter" means an oral interpreter or sign language interpreter.

e. "Oral interpreter" means an interpreter who is fluent in transliterating, paraphrasing, and voicing.

f. "Sign language interpreter" means an interpreter who is able to interpret from sign language to English and English to sign language.

Sec. 8. Section 622B.2, Code 1993, is amended to read as follows:

622B.2 INTERPRETER APPOINTED.

If a hearing-impaired deaf or hard-of-hearing person is a party to, or a witness at, or a participant in a proceeding before a grand jury, court, or administrative agency of this state, the court or administrative agency shall appoint an interpreter without expense to the hearing-impaired deaf or hard-of-hearing person to interpret or translate the proceedings to the hearing-impaired deaf or hard-of-hearing person and to interpret or translate the person's testimony unless the hearing-impaired deaf or hard-of-hearing person waives the right to an interpreter.

Sec. 9. Section 622B.3, Code 1993, is amended to read as follows:

622B.3 NOTICE OF NEED.

When a hearing-impaired deaf or hard-of-hearing person is entitled to an interpreter, the hearing-impaired deaf or hard-of-hearing person shall notify the presiding official within three days after receiving notice of the proceeding, stating the disability and requesting the services of an interpreter. If the hearing-impaired deaf or hard-of-hearing person receives notification of an appearance less than five days prior to the proceeding, that person shall notify the presiding official requesting an interpreter as soon as practicable or may apply for a continuance until an interpreter is appointed.

Sec. 10. Section 622B.4, Code 1993, is amended to read as follows:

622B.4 LIST.

The division of deaf services of the department of human rights shall prepare and continually update a listing of qualified and available interpreters. The courts and administrative agencies shall maintain a directory of qualified interpreters for hearing-impaired deaf and hard-of-hearing persons as furnished by the department of human rights. The division of deaf services shall maintain information on the qualifications of interpreters, which

information is confidential except to a court, administrative agency, or interested parties to an action using the services of an interpreter.

Sec. 11. Section 622B.5, Code 1993, is amended to read as follows:

622B.5 OATH.

Before participating in a proceeding, an interpreter shall take an oath that the interpreter will make a true interpretation in an understandable manner to the person for whom the interpreter is appointed and that the interpreter will interpret or translate the statements of the hearing-impaired deaf or hard-of-hearing person to the best of the interpreter's skills and judgment.

Sec. 12. Section 622B.6, Code 1993, is amended to read as follows:

622B.6 PRIVILEGED.

Communication between a hearing-impaired deaf or hard-of-hearing person and a third party which is privileged under chapter 622 in which the interpreter participates as an interpreter shall be privileged to the interpreter.

Sec. 13. Section 622B.7, Code 1993, is amended to read as follows:

622B.7 FEE.

An interpreter appointed under this chapter is entitled to a reasonable fee and expenses as determined by the rules applying to that proceeding. This schedule shall be furnished to all courts and administrative agencies and maintained by them. If the interpreter is appointed by the court, the fee and expenses shall be paid by the county and if the interpreter is appointed by an administrative agency, the fee and expenses shall be paid out of funds available to the administrative agency. ~~if a hearing-impaired person is not a party to the action, the fees and expenses of an interpreter shall be charged to costs.~~

Sec. 14. Section 804.31, Code 1993, is amended to read as follows:

804.31 ARREST OF HEARING-IMPAIRED DEAF OR HARD-OF-HEARING PERSON -- USE OF INTERPRETERS -- FEE.

When a person is detained for questioning or arrested for an alleged violation of a law or ordinance and there is reason to believe that the person is hearing-impaired deaf or hard-of-hearing, the peace officer making the arrest or taking the person into custody or any other officer detaining the person shall determine if the person is a hearing-impaired deaf or hard-of-hearing person as defined in section 622B.1. If the officer so determines, the officer, at the earliest possible time and prior to commencing any custodial interrogation of the person, shall procure a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court under section 622B.1 unless the hearing-impaired deaf or hard-of-hearing person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the department of human rights and the Iowa county attorneys association. The interpreter shall interpret the officer's warnings of constitutional rights and protections and all other warnings, statements, and questions spoken or written by any officer, attorney, or other person present and all statements and questions communicated in sign language by the hearing-impaired deaf or hard-of-hearing person.

This section does not prohibit the request for and administration of a preliminary breath screening test or the request for and administration of a chemical test of a body substance or substances under chapter 321J prior to the arrival of a qualified interpreter for a hearing-impaired deaf or hard-of-hearing person who is believed to have committed a violation of section 321J.2. However, upon the arrival of the interpreter the officer who requested the chemical test shall explain through the interpreter the reason for the testing,

the consequences of the person's consent or refusal, and the ramifications of the results of the test, if one was administered.

When an interpreter is not readily available and the hearing-impaired deaf or hard-of-hearing person's identity is known, the person may be released by the law enforcement agency into the temporary custody of a reliable family member or other reliable person to await the arrival of the interpreter, if the person is eligible for release on bail and is not believed to be an immediate threat to the person's own safety or the safety of others.

An answer, statement, or admission, oral or written, made by a hearing-impaired deaf or hard-of-hearing person in reply to a question of a law enforcement officer or any other person having a prosecutorial function in a criminal proceeding is not admissible in court and shall not be used against the hearing-impaired deaf or hard-of-hearing person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the hearing-impaired deaf or hard-of-hearing person had waived the right to an interpreter pursuant to this section. In the event of a waiver and criminal proceeding, the court shall determine whether the waiver and any subsequent answer, statement, or admission made by the hearing-impaired deaf or hard-of-hearing person were knowingly, voluntarily, and intelligently made.

When communication occurs with a person through an interpreter pursuant to this section, all questions or statements and responses shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and hearing-impaired deaf or hard-of-hearing parties. An interpreter shall not be compelled to answer any question or respond to any statement that serves to violate that role at the time of questioning or arrest or at any subsequent administrative or judicial proceeding.

An interpreter procured under this section shall be paid a reasonable fee and expenses by the governmental subdivision funding the law enforcement agency that procured the interpreter.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 220, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 3, 1993

TERRY E. BRANSTAD
Governor

SF 220