

Gen. Assem. Res. 3/19
S. Res. 3/21 (p. 954)

HOUSE FILE 2447

Human Resources
State Court
C. Miller
Bates

1984

HOUSE FILE 2447

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar

(Formerly Study Bill 752)

Passed House, Date 3-16-84 (p. 1093) Passed Senate, Date 3-28-84 (p. 1104)

Vote: Ayes 93 Nays 0 Vote: Ayes 47 Nays 0

Approved May 11, 1984

A BILL FOR

1 An Act relating to the providing of interpreters for hearing
2 impaired persons.

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

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HF 2447

1 Section 1. NEW SECTION. 804.31 ARREST OF HEARING IMPAIRED
2 PERSONS--USE OF INTERPRETERS. When a hearing impaired person,
3 as defined in section 622B.1, subsection 1, paragraph "a"
4 is brought in for questioning or arrested for an alleged
5 violation of a criminal law, including a local ordinance,
6 the peace officer making the arrest or that officer's superior
7 shall procure at the earliest possible time, unless the hearing
8 impaired person waives the right in writing, and the waiver
9 was made knowingly, voluntarily, and intelligently, a qualified
10 interpreter in accordance with section 622B.2 and the rules
11 adopted by the supreme court as required in section 622B.1,
12 subsection 2. The interpreter shall interpret the Miranda
13 warning, notification of rights, the interrogation proceedings,
14 other questioning or arrest procedures, and all statements
15 made by the hearing impaired person. This section does not
16 prohibit a law enforcement agency from conducting a pre-
17 liminary screening test pursuant to section 321B.3 prior to
18 the arrival of a qualified interpreter.

19 If otherwise eligible for release, the hearing impaired
20 person shall not be held in custody only to await the arrival
21 of a qualified interpreter.

22 An answer, statement, or admission, oral or written, made
23 by a hearing impaired person in reply to a question of a law
24 enforcement officer or any other person having a prosecutorial
25 function in a criminal proceeding is not admissible in court
26 and shall not be used against the hearing impaired person
27 if that answer, statement, or admission was not made or
28 elicited through a qualified interpreter, unless the hearing
29 impaired person waives this exclusion in writing, and the
30 waiver was made knowingly, voluntarily, and intelligently.
31 In the event of a waiver, the court shall make a special
32 finding to determine if the waiver and any subsequent answer,
33 statement, or admission made by the hearing impaired person
34 was made knowingly, voluntarily, and intelligently.

35 When communication to any person pursuant to this section

1 occurs through an interpreter, all questions or statements
2 and responses thereto shall be relayed through the interpreter.
3 The role of the interpreter is to facilitate communication
4 between the hearing and hearing impaired parties. An
5 interpreter shall not be compelled to answer any question
6 or respond to any statement that serves to violate that role
7 at the time of questioning or arrest or at any subsequent
8 administrative or judicial proceeding.

9 EXPLANATION

10 This bill requires that an interpreter be used for a hearing
11 impaired person brought in for questioning or arrested. A
12 hearing impaired person may submit to a preliminary screening
13 test for operating a motor vehicle under the influence of
14 alcoholic beverages or drugs without an interpreter present.

15 The bill takes effect July 1 following enactment.

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HOUSE FILE 2447

AN ACT

RELATING TO THE PROVIDING OF INTERPRETERS FOR HEARING IMPAIRED PERSONS.

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

Section 1. NEW SECTION. 804.31 ARREST OF HEARING IMPAIRED PERSONS--USE OF INTERPRETERS. When a hearing impaired person, as defined in section 622B.1, subsection 1, paragraph "a" is brought in for questioning or arrested for an alleged violation of a criminal law, including a local ordinance, the peace officer making the arrest or that officer's superior shall procure at the earliest possible time, unless the hearing impaired person waives the right in writing, and the waiver was made knowingly, voluntarily, and intelligently, a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court as required in section 622B.1, subsection 2. The interpreter shall interpret the Miranda warning, notification of rights, the interrogation proceedings, other questioning or arrest procedures, and all statements made by the hearing impaired person. This section does not prohibit a law enforcement agency from conducting a preliminary screening test pursuant to section 321B.3 prior to the arrival of a qualified interpreter.

If otherwise eligible for release, the hearing impaired person shall not be held in custody only to await the arrival of a qualified interpreter.

An answer, statement, or admission, oral or written, made by a hearing impaired 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 person if that answer, statement, or admission was not made or elicited through a qualified interpreter unless the hearing impaired person waives this exclusion in writing, and the waiver was made knowingly, voluntarily, and intelligently.

In the event of a waiver, the court shall make a special finding to determine if the waiver and any subsequent answer, statement, or admission made by the hearing impaired person was made knowingly, voluntarily, and intelligently.

When communication to any person pursuant to this section occurs through an interpreter, all questions or statements and responses thereto shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and hearing impaired 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.

.....
DONALD D. AVENSON
Speaker of the House

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ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2447, Seventieth General Assembly.

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JOSEPH O'HEARN
Chief Clerk of the House

Approved *May 4* 1984

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TERRY E. BRANSTAD
Governor

H.F. 2447