

Senate Study Bill 1073 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

A BILL FOR

1 An Act relating to interpreters and translators for limited
2 English proficient participants in legal proceedings and in
3 court-ordered programs.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.141, subsections 1 and 2, Code 2011,
2 are amended to read as follows:

3 1. Except as otherwise provided by law, the court shall
4 inquire into the ability of the child or the child's parent
5 to pay expenses incurred pursuant to subsections 2, 4, and 8.
6 After giving the parent a reasonable opportunity to be heard,
7 the court may order the parent to pay all or part of the costs
8 of the child's care, examination, treatment, legal expenses,
9 or other expenses, excluding the costs and fees of interpreter
10 and translator services. An order entered under this section
11 does not obligate a parent paying child support under a custody
12 decree, except that part of the monthly support payment may be
13 used to satisfy the obligations imposed by the order entered
14 pursuant to this section. If a parent fails to pay as ordered,
15 without good reason, the court may proceed against the parent
16 for contempt and may inform the county attorney who shall
17 proceed against the parent to collect the unpaid amount. Any
18 payment ordered by the court shall be a judgment against each
19 of the child's parents and a lien as provided in section
20 624.23. If all or part of the amount that the parents are
21 ordered to pay is subsequently paid by the county or state,
22 the judgment and lien shall thereafter be against each of the
23 parents in favor of the county to the extent of the county's
24 payments and in favor of the state to the extent of the state's
25 payments.

26 2. All of the following juvenile court expenses are a charge
27 upon the county in which the proceedings are held, to the
28 extent provided in subsection 3:

29 a. Juvenile court expenses incurred by an attorney appointed
30 by the court to serve as counsel to any party or to serve as a
31 guardian ad litem for any child, including fees and expenses
32 for ~~foreign language interpreters, costs of depositions and~~
33 transcripts, fees and mileage of witnesses, and the expenses of
34 officers serving notices and subpoenas.

35 b. Reasonable compensation for an attorney appointed by the

1 court to serve as counsel to any party or as guardian ad litem
2 for any child in juvenile court.

3 ~~e. Fees and expenses incurred by the juvenile court for~~
4 ~~foreign language interpreters for court proceedings.~~

5 Sec. 2. Section 602.1302, subsection 3, Code 2011, is
6 amended to read as follows:

7 3. A revolving fund is created in the state treasury for
8 the payment of jury and witness fees, mileage, costs related to
9 summoning jurors by the judicial branch, costs and fees related
10 to the management and payment of interpreters and translators
11 in judicial branch legal proceedings and court-ordered
12 programs, and attorney fees paid by the state public defender
13 for counsel appointed pursuant to section 600A.6A. The
14 judicial branch shall deposit any reimbursements to the state
15 for the payment of jury and witness fees and mileage in the
16 revolving fund. In each calendar quarter the judicial branch
17 shall reimburse the state public defender for attorney fees
18 paid pursuant to section 600A.6B. Notwithstanding section
19 8.33, unencumbered and unobligated receipts in the revolving
20 fund at the end of a fiscal year do not revert to the general
21 fund of the state. The judicial branch shall on or before
22 February 1 file a financial accounting of the moneys in the
23 revolving fund with the legislative services agency. The
24 accounting shall include an estimate of disbursements from the
25 revolving fund for the remainder of the fiscal year and for the
26 next fiscal year.

27 Sec. 3. Section 622A.1, Code 2011, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **622A.1 Definitions.**

30 As used in this chapter, unless the context otherwise
31 requires:

32 1. "*Administrative agency*" means any department, board,
33 commission, or agency of the state or any political subdivision
34 of the state.

35 2. "*Court-ordered program*" means any activity in which a

1 court orders a party to participate and which is not supervised
2 by the department of corrections or the department of human
3 services.

4 3. "*Interpreter*" means a person who can accurately transfer
5 the meaning of words, phrases, or signs in one language into
6 the equivalent words, phrases, or signs in another language
7 and includes an oral language interpreter and a sign language
8 interpreter.

9 4. "*Legal proceeding*" means any action before any court,
10 or any legal action preparatory to appearing before any
11 court, whether civil, criminal, or juvenile in nature
12 or any proceeding before any administrative agency which
13 is quasi-judicial in nature and which has direct legal
14 implications to any person.

15 5. "*Limited English proficient*" means the inability to
16 adequately understand or effectively communicate in the English
17 language because a person's primary language is a language
18 other than English.

19 6. "*Oral language interpreter*" means an interpreter who is
20 able to interpret from one oral language into a second oral
21 language and from the second oral language into the first oral
22 language.

23 7. "*Participant*" means a party, witness, attorney, or
24 child, including a child who is or may be the subject of a
25 delinquency petition, a parent or guardian whose child is or
26 may be the subject of a delinquency petition, or a person who
27 is a guardian, conservator, or trustee in a probate case.

28 8. "*Sign language interpreter*" means an interpreter who is
29 able to interpret from sign language to an oral language and
30 from that oral language to sign language.

31 9. "*Translator*" means a person who can accurately transfer
32 the meaning of written words and phrases in one language into
33 the equivalent written words and phrases in another language.

34 Sec. 4. Section 622A.2, Code 2011, is amended to read as
35 follows:

1 **622A.2 Who entitled to interpreter or translator.**

2 Every limited English proficient person who ~~cannot speak~~
3 ~~or understand the English language and who is a party to any~~
4 is a participant in a legal proceeding or a witness therein,
5 court-ordered program shall be entitled to an interpreter or
6 translator to assist such person throughout the proceeding or
7 program.

8 Sec. 5. Section 622A.3, Code 2011, is amended to read as
9 follows:

10 **622A.3 Costs ~~— when taxed.~~**

11 1. An interpreter ~~shall be~~ or translator appointed without
12 ~~expense to the person requiring assistance in the following~~
13 ~~cases:~~ for a limited English proficient participant who is
14 entitled to an interpreter or translator pursuant to section
15 622A.2 shall be paid in accordance with this section and the
16 fees for interpreter or translator services shall not be
17 charged to the limited English proficient participant or the
18 parties in the case.

19 ~~a. If the person requiring assistance is a witness in the~~
20 ~~civil legal proceeding.~~

21 ~~b. If the person requiring assistance is indigent and~~
22 ~~financially unable to secure an interpreter.~~

23 2. ~~In civil cases, every court shall tax the cost of~~
24 ~~an interpreter the same as other court costs. In criminal~~
25 ~~cases, where the defendant is indigent, the interpreter~~
26 ~~shall be considered as a defendant's witness under rule~~
27 ~~of criminal procedure 2.15 for the purpose of receiving~~
28 ~~fees, except that subpoenas shall not be required. If the~~
29 ~~proceeding is before an administrative agency, that agency~~
30 ~~shall provide such interpreter but may require that a party~~
31 ~~to the proceeding pay the expense thereof~~ An oral language
32 interpreter or a translator required for a limited English
33 proficient participant in a judicial branch legal proceeding
34 or a court-ordered program shall be paid by the state court
35 administrator from the revolving fund established in section

1 602.1302, subsection 3.

2 3. ~~Moneys recovered as court costs for interpreters paid~~
3 ~~through the revolving fund established in section 602.1302,~~
4 ~~subsection 3, shall be deposited in that fund~~ An oral
5 language interpreter or a translator required for a limited
6 English proficient participant in a legal proceeding before
7 an administrative agency shall be paid by the appropriate
8 administrative agency.

9 4. A sign language interpreter and a real-time court
10 reporter who assist a deaf or hard-of-hearing participant in a
11 legal proceeding before a court or an administrative agency or
12 in a court-ordered program shall be paid by the county pursuant
13 to section 622B.7.

14 Sec. 6. Section 622A.4, Code 2011, is amended to read as
15 follows:

16 **622A.4 Fee for interpreter and translator services set by**
17 **court or administrative agency — payment.**

18 Every An interpreter or translator appointed by a court
19 or administrative agency shall receive a fee to be set by
20 the court or administrative agency. ~~If the interpreter is~~
21 ~~appointed by the court in a civil case for a person who is~~
22 ~~indigent and unable to secure an interpreter, the fee for the~~
23 ~~interpreter shall be paid from the revolving fund established~~
24 ~~in section 602.1302, subsection 3.~~

25 Sec. 7. Section 622A.5, Code 2011, is amended to read as
26 follows:

27 **622A.5 Oath.**

28 Every An interpreter or translator in any legal proceeding
29 shall take ~~the same~~ an oath as ~~any other witness~~ approved by
30 the supreme court.

31 Sec. 8. Section 622A.6, Code 2011, is amended to read as
32 follows:

33 **622A.6 Qualifications and integrity.**

34 Any court or administrative agency may inquire into the
35 qualifications, neutrality, and integrity of any interpreter

1 or translator, and may disqualify any person from serving as
2 an interpreter or translator.

3 Sec. 9. Section 622A.7, Code 2011, is amended to read as
4 follows:

5 **622A.7 Rules — qualifications and compensation of**
6 **interpreters and translators.**

7 The supreme court, after consultation with the commission
8 of Latino affairs of the department of human rights and other
9 appropriate departments, shall adopt rules governing the
10 qualifications and compensation of interpreters and translators
11 appearing in proceedings before a court or grand jury under
12 this chapter. However, an administrative agency which is
13 subject to chapter 17A may adopt rules differing from those of
14 the supreme court governing the qualifications and compensation
15 of interpreters and translators appearing in proceedings before
16 that agency.

17 Sec. 10. Section 622A.8, Code 2011, is amended to read as
18 follows:

19 **622A.8 ~~Tape~~ Electronic recording of testimony.**

20 ~~A tape~~ An electronic recording of the portion of proceedings
21 where non-English testimony is given shall be made and
22 maintained.

23 Sec. 11. Section 622B.1, subsection 1, paragraphs d through
24 f, Code 2011, are amended to read as follows:

25 *d.* ~~"Interpreter"~~ means ~~an oral interpreter or sign language~~
26 ~~interpreter~~ a person who can accurately transfer the meaning of
27 words, phrases, or signs in one language into the equivalent
28 words, phrases, or signs in another language, and includes an
29 oral language interpreter and a sign language interpreter.

30 *e.* ~~"Oral language interpreter"~~ means an interpreter who is
31 ~~fluent in transliterating, paraphrasing, and voicing~~ able to
32 interpret from one oral language into a second oral language
33 and from the second oral language to the first oral language.

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

1 ~~sign language~~ an oral language and from that oral language to
2 sign language.

3 Sec. 12. Section 815.9, subsections 3, 4, 5, and 7, Code
4 2011, are amended to read as follows:

5 3. If a person is granted an appointed attorney, the person
6 shall be required to reimburse the state for the total cost
7 of legal assistance provided to the person, excluding the
8 costs and fees of interpreter and translator services. "*Legal*
9 *assistance*" as used in this section shall include not only
10 an appointed attorney, but also transcripts, witness fees,
11 expenses, and any other goods or services required by law to
12 be provided to an indigent person entitled to an appointed
13 attorney.

14 4. If the case is a criminal case, all costs and fees
15 incurred for legal assistance, excluding the costs and fees
16 of interpreter and translator services, shall become due and
17 payable to the clerk of the district court by the person
18 receiving the legal assistance not later than the date of
19 sentencing, or if the person is acquitted or the charges are
20 dismissed, within thirty days of the acquittal or dismissal.

21 5. If the case is other than a criminal case, all costs and
22 fees incurred for legal assistance, excluding the costs and
23 fees of interpreter and translator services, shall become due
24 and payable to the clerk of the district court by the person
25 receiving the legal assistance not later than ten days from the
26 date of any court ruling or trial held in the case, or if the
27 case is dismissed, within ten days of the dismissal.

28 7. If all costs and fees incurred for legal assistance,
29 excluding the costs and fees of interpreter and translator
30 services, are not paid at the times specified in subsections 4
31 and 5, the court shall order payment of the costs and fees in
32 reasonable installments.

33

EXPLANATION

34 This bill relates to interpreters and translators for
35 limited English proficient participants in legal proceedings

1 and in court-ordered programs.

2 The bill provides that a "limited English proficient" (LEP)
3 person who is a participant in any legal proceeding involving a
4 court or an administrative agency or in a court-ordered program
5 shall be entitled to an interpreter or a translator to assist
6 the person in the proceeding or program. LEP is defined as the
7 inability of a person to adequately understand or effectively
8 communicate in the English language because a person's primary
9 language is a language other than English. The bill defines
10 an "interpreter" as a person who can accurately transfer the
11 meaning of words, phrases, or signs in one language into the
12 equivalent words, phrases, or signs in another language and
13 includes an oral language interpreter and a sign language
14 interpreter; a "translator" as a person who can accurately
15 transfer the meaning of written words and phrases in one
16 language into the equivalent written words and phrases in
17 another language; and a "participant" as a party, witness,
18 attorney, or child, including a child who is or may be the
19 subject of a delinquency petition, a parent or guardian whose
20 child is or may be the subject of a delinquency petition, or a
21 person who is a guardian, conservator, or trustee in a probate
22 case.

23 The bill provides that fees for interpreter or translator
24 services shall not be charged to an LEP participant in a legal
25 proceeding or court-ordered program. The bill specifies
26 that an oral language interpreter or a translator required
27 for an LEP participant in a judicial branch legal proceeding
28 or in a court-ordered program is to be paid by the state
29 court administrator from the revolving fund established in
30 Code section 602.1302, subsection 3 (known as the jury and
31 witness fund); an oral language interpreter or a translator
32 required for an LEP participant in a legal proceeding before
33 an administrative agency is to be paid by the appropriate
34 administrative agency; and a sign language interpreter and a
35 real-time court reporter who assist a deaf or hard-of-hearing

1 participant in a legal proceeding before a court or an
2 administrative agency or in a court-ordered program are to be
3 paid by the county pursuant to Code section 622B.7. The bill
4 makes conforming changes excluding the costs of interpreter
5 and translator services from being charged to a parent in a
6 juvenile proceeding (Code section 232.141) and to a person
7 receiving indigent legal assistance services (Code section
8 815.9).

9 The bill provides additional provisions specifying that fees
10 and qualifications for interpreter and translator services
11 are to be determined by the court or administrative agency,
12 as appropriate; an interpreter or translator in any legal
13 proceeding is required to take an oath approved by the supreme
14 court; and a court or an administrative agency may inquire into
15 the qualifications, neutrality, and integrity of an interpreter
16 or translator and may disqualify any person from serving as an
17 interpreter or translator. The bill requires electronic rather
18 than audio recordings of the portion of proceedings where
19 non-English testimony is given to be made and maintained.

20 The bill makes conforming changes to the definitions of
21 "interpreter", "oral language interpreter", and "sign language
22 interpreter" in Code chapter 622B (deaf and hard-of-hearing
23 interpreters) to be consistent with the definitions in the
24 bill.