

Senate Study Bill 1113 - Introduced

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

A BILL FOR

1 An Act relating to interpreters for persons who are limited
2 English proficient, deaf, deaf-blind, or hard-of-hearing in
3 certain legal proceedings and 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 2015,
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 622A.1, Code 2015, is amended to read as
6 follows:

7 **622A.1 Definitions.**

8 As used in this chapter, unless the context otherwise
9 requires:

10 1. "Administrative agency" means any department, board,
11 commission, or agency of the state or any political subdivision
12 of the state.

13 2. "Interpreter" means a person who can accurately transfer
14 the meaning of words, phrases, or signs of one language into
15 the equivalent words, phrases, or signs in another language
16 and includes an oral language interpreter and a sign language
17 interpreter.

18 ~~2.~~ 3. "Legal proceeding" means any action before any
19 court, or any legal action preparatory to appearing before
20 any court, whether civil, criminal, or juvenile in nature;
21 and any proceeding before any administrative agency which
22 is quasi-judicial in nature and which has direct legal
23 implications to any person.

24 4. "Limited English proficient" means the inability to
25 adequately understand or effectively communicate in the English
26 language because a person's primary language is a language
27 other than English or the person is deaf, deaf-blind, or
28 hard-of-hearing.

29 5. "Oral language interpreter" means an interpreter who is
30 able to interpret from one oral language into a second oral
31 language and from the second oral language into the first oral
32 language.

33 6. "Participant" means a party, witness, or attorney in any
34 legal proceeding; a child who is or may be the subject of a
35 delinquency petition; a parent, guardian, or custodian, whose

1 child is or may be the subject of a delinquency petition; or a
2 person who is a guardian, conservator, or trustee in a probate
3 case.

4 7. "Sign language interpreter" means an interpreter who is
5 able to interpret from sign language into an oral language and
6 from that oral language into sign language.

7 Sec. 3. Section 622A.2, Code 2015, is amended to read as
8 follows:

9 **622A.2 Who entitled to an interpreter.**

10 ~~Every~~ A limited English proficient person who cannot speak
11 ~~or understand the English language and who is a party to any~~
12 ~~legal proceeding or a witness therein, shall be~~ is entitled to
13 an interpreter to assist such person throughout ~~the~~ a legal
14 ~~proceeding.~~ without cost when the limited English proficient
15 person is any of the following:

16 1. A participant in a legal proceeding.

17 2. A party whom a court has ordered to participate in either
18 mediation or a predisposition parenting program in a domestic
19 relations case.

20 3. A party in a pending court case who requires an
21 interpreter during a deposition or consultation with an
22 attorney or in preparation for a legal proceeding before
23 any court, if the party is entitled to appointment of legal
24 counsel in a criminal or juvenile case, or the court otherwise
25 determines that the party is indigent or cannot afford to pay
26 for interpreter services.

27 Sec. 4. Section 622A.3, Code 2015, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **622A.3 Payment of interpreters.**

30 1. The state court administrator shall pay an oral language
31 interpreter from the revolving fund created in section
32 602.1302, subsection 3, when a limited English proficient
33 person is entitled to an oral language interpreter under
34 section 622A.2 and the oral language interpreter services are
35 not provided before an administrative agency.

1 2. The county where interpreter services are provided shall
2 pay a sign language interpreter or a real-time court reporter
3 when a deaf, deaf-blind, or hard-of-hearing person is entitled
4 to a sign language interpreter under section 622A.2 and the
5 interpreter services are not provided before an administrative
6 agency.

7 3. An administrative agency shall pay an interpreter when a
8 limited English proficient person is entitled to an interpreter
9 under section 622A.2 and the interpretive services are provided
10 before an administrative agency.

11 Sec. 5. Section 622A.4, Code 2015, is amended to read as
12 follows:

13 **622A.4 Fee set by court — payment or administrative agency.**

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

21 Sec. 6. Section 622A.5, Code 2015, is amended to read as
22 follows:

23 **622A.5 Oath.**

24 Every interpreter in any legal proceeding shall take ~~the~~
25 ~~same~~ an oath as any other witness consistent with the rules the
26 supreme court adopts under this chapter.

27 Sec. 7. Section 622A.6, Code 2015, is amended to read as
28 follows:

29 **622A.6 Qualifications, neutrality, and integrity.**

30 Any court or administrative agency may inquire into the
31 qualifications, neutrality, and integrity of any interpreter,
32 and may disqualify any person from serving as an interpreter.

33 Sec. 8. Section 622A.8, Code 2015, is amended to read as
34 follows:

35 **622A.8 Tape Electronic recording of testimony.**

1 ~~A-tape~~ An electronic recording of the portion of
2 proceedings where non-English testimony is given shall be
3 made and maintained for one year after the entry of the final
4 disposition or sentence or, if the final judgment is appealed,
5 until one year after the final disposition of the appeal.

6 Sec. 9. Section 622B.1, subsection 1, Code 2015, is amended
7 to read as follows:

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

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

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

16 *c. "Hard-of-hearing person"* means an individual who
17 is unable to hear and distinguish sounds within normal
18 conversational range and who needs to use speechreading,
19 assistive listening devices, or ~~oral interpreters~~ other
20 reasonable accommodations to facilitate communication.

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

26 *e. "Oral language interpreter"* means an interpreter who is
27 ~~fluent in transliterating, paraphrasing, and voicing~~ able to
28 interpret from one oral language into a second oral language
29 and from the second oral language into the first oral language.

30 *f. "Participant"* means a party, witness, or attorney in any
31 legal proceeding; a child who is or may be the subject of a
32 delinquency petition; a parent, guardian, or custodian, whose
33 child is or may be the subject of a delinquency petition; or a
34 person who is a guardian, conservator, or trustee in a probate
35 case.

1 ~~f.~~ g. "*Sign language interpreter*" means an interpreter who
2 is able to interpret from sign language ~~to English and English~~
3 ~~to sign language~~ into an oral language and from that oral
4 language into sign language.

5 Sec. 10. Section 622B.2, Code 2015, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **622B.2 Interpreter appointed.**

8 A court or administrative agency shall appoint an
9 interpreter without expense to a deaf or hard-of-hearing person
10 to interpret the proceedings to the deaf or hard-of-hearing
11 person and to interpret the deaf or hard-of-hearing person's
12 testimony, unless the deaf or hard-of-hearing person waives the
13 right to an interpreter, if the deaf or hard-of-hearing person
14 is any of the following:

15 1. A participant in a proceeding before a grand jury, court,
16 or administrative agency of this state.

17 2. A party who is ordered by a court to participate in
18 mediation or a predisposition parenting program in a domestic
19 relations case.

20 3. A party in a pending court case who requires an
21 interpreter during a deposition or consultation with an
22 attorney or in preparation for a legal proceeding before
23 any court, if the party is entitled to appointment of legal
24 counsel in a criminal or juvenile case, or the court otherwise
25 determines that the party is indigent or cannot afford to pay
26 for interpreter services.

27 Sec. 11. Section 622B.8, Code 2015, is amended to read as
28 follows:

29 **622B.8 Disqualification.**

30 On motion of a party or on its own motion, a court or
31 administrative agency shall inquire into the qualifications,
32 neutrality, and integrity of an interpreter. A court or
33 administrative agency may disqualify for good reason any person
34 from serving as an interpreter in that proceeding. If an
35 interpreter is disqualified, the court or administrative agency

1 shall appoint another interpreter.

2 Sec. 12. Section 815.9, subsection 3, Code 2015, is amended
3 to read as follows:

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

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with
16 the explanation’s substance by the members of the general assembly.

17 This bill relates to interpreters for persons who are
18 limited English proficient (LEP), including those persons who
19 are deaf, deaf-blind, or hard-of-hearing, in certain legal
20 proceedings and court-ordered programs.

21 The bill provides that a person is entitled to an interpreter
22 if that person is LEP and is a participant in any legal
23 proceeding, whom a court has ordered to participate in either
24 mediation or a predisposition parenting program in a domestic
25 relations case, or is a party in a pending court case and
26 who requires an interpreter during a deposition or attorney
27 consultation, if the party is entitled to appointment of
28 legal counsel, or the court otherwise determines that the
29 party is indigent. An LEP person is a person who is unable
30 to adequately understand or effectively communicate in the
31 English language because the person’s primary language is a
32 language other than English or the person is deaf, deaf-blind,
33 or hard-of-hearing. “Deaf person” means an individual who uses
34 sign language as the person’s primary mode of communication
35 and who may use interpreters to facilitate communication.

1 "Hard-of-hearing person" means an individual who is unable
2 to hear and distinguish sounds within normal conversational
3 range and who needs to use speechreading, assistive listening
4 devices, or other reasonable accommodations to facilitate
5 communication.

6 Under current law, in civil cases the court taxes the cost
7 of an interpreter for a person who cannot speak or understand
8 the English language as court costs, and in a proceeding
9 before an administrative agency the agency may require that
10 a party to the proceeding pay the expense of the interpreter
11 for a person who cannot speak or understand the English
12 language. An interpreter appointed for a person who is deaf or
13 hard-of-hearing is paid by the county if appointed by the court
14 and by the administrative agency if appointed by such agency.

15 The bill provides that fees for interpreter services shall
16 not be charged to an LEP person when such person is entitled
17 to an interpreter. Under the bill, interpreter fees are not
18 taxed as court costs. The bill provides that if an LEP person
19 is entitled to an oral language interpreter in a proceeding
20 or program that is not before an agency, the state court
21 administrator shall pay the oral language interpreter from the
22 revolving fund created in Code section 602.1302(3), and if an
23 LEP person is entitled to an oral language interpreter before
24 an agency, the agency shall pay the interpreter. The bill
25 further provides that if a deaf, deaf-blind, or hard-of-hearing
26 person is entitled to an interpreter or real-time court
27 reporter in a proceeding not before an agency, the county
28 where the interpreter services are provided shall pay the
29 interpreter, and if a deaf, deaf-blind, or hard-of-hearing
30 person is entitled to an interpreter before an agency, the
31 agency shall pay the interpreter.

32 The bill makes conforming changes to exclude the costs
33 of interpreter services from being charged to a parent in a
34 juvenile proceeding (Code section 232.141) and to a person
35 receiving indigent legal assistance (Code section 815.9).

1 The bill also provides that the court or administrative
2 agency, as appropriate, determines the fees and qualifications
3 for interpreter services; that an interpreter in any legal
4 proceeding is required to take an oath; and that a court or an
5 administrative agency may inquire into the neutrality of an
6 interpreter and may disqualify any person from serving as an
7 interpreter. The bill requires electronic rather than audio
8 recordings of the portion of proceedings where non-English
9 testimony is given to be made and maintained for one year
10 after the entry of the final disposition or sentence or, if
11 the final judgment is appealed, until one year after the final
12 disposition of the appeal.