

Senate File 2320 - Introduced

SENATE FILE 2320
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3148)

A BILL FOR

1 An Act relating to interpreters for limited-English-proficient,
2 deaf, and hard-of-hearing persons in certain court
3 proceedings and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.424, subsection 1, paragraph a,
2 subparagraph (6), Code 2020, is amended to read as follows:

3 (6) The maintenance and operation of the courts, including
4 but not limited to the salary and expenses of the clerk of the
5 district court and other employees of the clerk's office, and
6 bailiffs, court costs if the prosecution fails or if the costs
7 cannot be collected from the person liable, costs and expenses
8 of prosecution under [section 189A.17](#), salaries and expenses
9 of juvenile court officers under [chapter 602](#), court-ordered
10 costs in domestic abuse cases under [section 236.5](#), sexual abuse
11 cases under [section 236A.7](#), and elder abuse cases under section
12 235F.6, the county's expense for confinement of prisoners under
13 chapter 356A, temporary assistance to the county attorney,
14 county contributions to a retirement system for bailiffs,
15 reimbursement for judicial magistrates under [section 602.6501](#),
16 claims filed under [section 622.93](#), sign language interpreters'
17 fees under [section 622B.7](#), uniform citation and complaint
18 supplies under [section 805.6](#), and costs of prosecution under
19 section 815.13.

20 Sec. 2. Section 622A.1, Code 2020, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 3. "*Limited English proficient*" means the
23 inability to adequately understand or effectively communicate
24 in the English language because a person's primary language is
25 a language other than English.

26 Sec. 3. Section 622A.2, Code 2020, is amended to read as
27 follows:

28 **622A.2 Who entitled to interpreter Limited-English-proficient**
29 **persons — when entitled to interpreter.**

30 Every limited-English-proficient person who ~~cannot speak~~
31 ~~or understand the English language and who~~ is a party to any
32 legal proceeding or a witness therein, shall be entitled to an
33 interpreter to assist such person throughout the proceeding.

34 Sec. 4. Section 622A.3, subsection 1, unnumbered paragraph
35 1, Code 2020, is amended to read as follows:

1 An interpreter shall be appointed without expense to the
2 limited-English-proficient person ~~requiring assistance~~ in the
3 following cases:

4 Sec. 5. Section 622A.3, subsection 2, Code 2020, is amended
5 by striking the subsection and inserting in lieu thereof the
6 following:

7 2. The state court administrator shall receive, review,
8 and pay fee claims from an interpreter appointed under
9 subsection 1 and the fees shall be paid from the revolving
10 fund created in section 602.1302, subsection 3, when a
11 limited-English-proficient person is entitled to an interpreter
12 under section 622A.2 and the interpreter services are not
13 provided before an administrative agency. In civil cases,
14 every court shall tax the costs of an interpreter the same as
15 other court costs. In criminal cases, where the defendant is
16 indigent, the interpreter shall be considered as a defendant's
17 witness under rule of criminal procedure 2.15 for the purpose
18 of receiving fees, except that subpoenas shall not be required.

19 Sec. 6. Section 622A.3, Code 2020, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 2A. An administrative agency shall pay
22 an interpreter when a limited-English-proficient person
23 is entitled to an interpreter under section 622A.2 and the
24 interpreter services are provided before an administrative
25 agency. The agency may require that the party to the
26 proceeding pay the expense of the interpreter.

27 Sec. 7. Section 622A.4, Code 2020, is amended to read as
28 follows:

29 **622A.4 Fee set by court — payment or administrative agency.**

30 Every interpreter appointed by a court or administrative
31 agency shall receive a fee to be set by the court or
32 administrative agency. ~~If the interpreter is appointed by the
33 court in a civil case for a person who is indigent and unable
34 to secure an interpreter, the fee for the interpreter shall be
35 paid from the revolving fund established in section 602.1302,~~

1 ~~subsection 3.~~

2 Sec. 8. Section 622A.5, Code 2020, is amended to read as
3 follows:

4 **622A.5 Oath.**

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

8 Sec. 9. Section 622A.6, Code 2020, is amended to read as
9 follows:

10 **622A.6 Qualifications, neutrality, and integrity.**

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

14 Sec. 10. Section 622A.7, Code 2020, is amended to read as
15 follows:

16 **622A.7 Rules.**

17 The supreme court, after consultation with ~~the commission~~
18 ~~of Latino affairs~~ of the department of human rights and other
19 appropriate departments, shall adopt rules governing the
20 qualifications and compensation of interpreters appearing in
21 legal proceedings before a court or grand jury under this
22 chapter. However, an administrative agency which is subject
23 to [chapter 17A](#) may adopt rules differing from those of the
24 supreme court governing the qualifications and compensation of
25 interpreters appearing in proceedings before that agency.

26 Sec. 11. Section 622A.8, Code 2020, is amended to read as
27 follows:

28 **622A.8 ~~Tape~~ Electronic recording of testimony.**

29 A ~~tape~~ An electronic recording of the portion of
30 proceedings where non-English testimony is given shall be
31 made and maintained for one year after the entry of the final
32 disposition or sentence or, if the final judgment is appealed,
33 until one year after the final disposition of the appeal.

34 Sec. 12. NEW SECTION. **622A.9 Privileged communications.**

35 Communications between a limited-English-proficient person

1 and a third party which are privileged under chapter 622 in
2 which an interpreter participates as an interpreter shall be
3 privileged with regard to the interpreter.

4 Sec. 13. Section 622B.1, Code 2020, is amended to read as
5 follows:

6 **622B.1 Definitions — rules.**

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

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

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

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

20 *~~d. "Interpreter" means an oral interpreter or sign language~~*
21 *~~interpreter.~~*

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

24 *~~f. d. "Sign language interpreter" means an interpreter a~~*
25 *~~person who is able to interpret from sign language to English~~*
26 *~~and English to into an oral language and from an oral language~~*
27 *~~into sign language.~~*

28 2. The supreme court, after consultation with the
29 department of human rights, shall adopt rules governing the
30 qualifications and compensation of sign language interpreters
31 appearing in a legal proceeding before a court, grand jury, or
32 before an administrative agency under this chapter. However,
33 an administrative agency which is subject to chapter 17A
34 may adopt rules differing from those of the supreme court
35 governing the qualifications and compensation of sign language

1 interpreters appearing in proceedings before that agency.

2 Sec. 14. Section 622B.2, Code 2020, is amended to read as
3 follows:

4 **622B.2 Interpreter appointed.**

5 If a deaf or hard-of-hearing person is a party to, a witness
6 at, or a participant in a proceeding before a grand jury,
7 court, or administrative agency of this state, the court
8 or administrative agency shall appoint ~~an~~ a sign language
9 interpreter without expense to the deaf or hard-of-hearing
10 person to interpret or translate the proceedings to the deaf
11 or hard-of-hearing person and to interpret or translate the
12 person's testimony unless the deaf or hard-of-hearing person
13 waives the right to ~~an~~ a sign language interpreter.

14 Sec. 15. Section 622B.3, Code 2020, is amended to read as
15 follows:

16 **622B.3 Notice of need.**

17 When a deaf or hard-of-hearing person is entitled to ~~an~~ a
18 sign language interpreter, the deaf or hard-of-hearing person
19 shall notify the presiding official within three days after
20 receiving notice of the proceeding, stating the disability and
21 requesting the services of ~~an~~ a sign language interpreter. If
22 the deaf or hard-of-hearing person receives notification of an
23 appearance less than five days prior to the proceeding, that
24 person shall notify the presiding official requesting ~~an~~ a sign
25 language interpreter as soon as practicable or may apply for a
26 continuance until ~~an~~ a sign language interpreter is appointed.

27 Sec. 16. Section 622B.4, Code 2020, is amended to read as
28 follows:

29 **622B.4 List.**

30 ~~The office of deaf services of the department of human~~
31 ~~rights~~ public health shall prepare and continually update a
32 listing of qualified and available sign language interpreters.
33 The courts and administrative agencies shall maintain a
34 directory of qualified sign language interpreters for deaf
35 and hard-of-hearing persons as furnished by the department

1 of ~~human rights~~ public health. The ~~office of deaf services~~
2 department of public health shall maintain a list of sign
3 language interpreters which shall be made available to a court,
4 administrative agency, or interested parties to an action using
5 the services of ~~an~~ a sign language interpreter.

6 Sec. 17. Section 622B.5, Code 2020, is amended to read as
7 follows:

8 **622B.5 Oath.**

9 Before participating in a proceeding, ~~an~~ a sign
10 language interpreter shall take an oath that the sign
11 language interpreter will make a true interpretation in an
12 understandable manner to the person for whom the sign language
13 interpreter is appointed and that the sign language interpreter
14 will interpret or translate the statements of the deaf or
15 hard-of-hearing person to the best of the sign language
16 interpreter's skills and judgment.

17 Sec. 18. Section 622B.6, Code 2020, is amended to read as
18 follows:

19 **622B.6 Privileged communications.**

20 Communication between a deaf or hard-of-hearing person
21 and a third party which is privileged under **chapter 622** in
22 which the sign language interpreter participates as ~~an~~ a sign
23 language interpreter shall be privileged to the sign language
24 interpreter.

25 Sec. 19. Section 622B.7, Code 2020, is amended to read as
26 follows:

27 **622B.7 Fee.**

28 ~~An~~ A sign language interpreter appointed under **this chapter**
29 is entitled to a reasonable fee and expenses as determined
30 by the rules applying to that proceeding. This schedule
31 shall be furnished to all courts and administrative agencies
32 and maintained by them. If the sign language interpreter is
33 appointed by the court, the fee and expenses shall be paid by
34 the county and if the sign language interpreter is appointed by
35 an administrative agency, the fee and expenses shall be paid

1 out of funds available to the administrative agency.

2 Sec. 20. Section 622B.8, Code 2020, is amended to read as
3 follows:

4 **622B.8 Disqualification.**

5 On motion of a party or on its own motion, a court or
6 administrative agency shall inquire into the qualifications,
7 neutrality, and integrity of ~~an~~ a sign language interpreter. A
8 court or administrative agency may disqualify for good reason
9 any person from serving as ~~an~~ a sign language interpreter
10 in that proceeding. If ~~an~~ a sign language interpreter is
11 disqualified, the court or administrative agency shall appoint
12 another sign language interpreter.

13 Sec. 21. Section 815.11, Code 2020, is amended to read as
14 follows:

15 **815.11 Appropriations for indigent defense — fund created.**

16 1. Costs incurred for legal representation by a
17 court-appointed attorney under chapter 229A, 665, 822, or 908,
18 or section 232.141, subsection 3, paragraph “d”, or section
19 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or
20 815.10 on behalf of an indigent shall be paid from moneys
21 appropriated by the general assembly to the office of the
22 state public defender in the department of inspections and
23 appeals and deposited in an account to be known as the indigent
24 defense fund, except as provided in subsection 2. Costs
25 incurred representing an indigent defendant in a contempt
26 action, or representing an indigent juvenile in a juvenile
27 court proceeding, are also payable from the fund. However,
28 costs incurred in any administrative proceeding or in any
29 other proceeding under this chapter or chapter 598, 600, 600A,
30 633, 633A, 814, or 915 or other provisions of the Code or
31 administrative rules are not payable from the fund.

32 2. The costs and fees associated with interpreters
33 are not payable from this fund. The costs and fees of an
34 interpreter shall be paid pursuant to section 622A.3 from
35 moneys appropriated by the general assembly to the judicial

1 branch revolving fund created pursuant to section 602.1302,
2 subsection 3.

3 Sec. 22. EFFECTIVE DATE. This Act takes effect October 1,
4 2020.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 This bill relates to interpreters for
9 limited-English-proficient persons and sign language
10 interpreters for deaf and hard-of-hearing persons.

11 The bill amends Code chapter 622A, which in the bill provides
12 for interpreters for limited-English-proficient persons in
13 legal proceedings.

14 The bill defines "limited English proficient" to mean the
15 inability to adequately understand or effectively communicate
16 in the English language because a person's primary language is
17 a language other than English.

18 The bill provides that the state court administrator
19 shall receive, review, and pay fee claims for interpreters
20 from the revolving fund created in Code section 602.1302(3)
21 when a limited-English-proficient person is entitled to an
22 interpreter and the interpreter services are not provided
23 before an administrative agency. The bill provides that in
24 civil cases, every court shall tax the costs of an interpreter
25 the same as other court costs. In criminal cases, the bill
26 provides that where the defendant is indigent, the interpreter
27 shall be considered as a defendant's witness under rule of
28 criminal procedure 2.15 for the purpose of receiving fees,
29 except that subpoenas are not required. The bill provides
30 that an administrative agency shall pay an interpreter
31 when a limited-English-proficient person is entitled to an
32 interpreter and the interpreter services are provided before
33 an administrative agency. The bill provides that the agency
34 may require that the party to the proceeding pay the expense
35 of the interpreter.

1 The bill provides that an interpreter in a legal proceeding
2 shall take an oath consistent with rules the supreme court
3 adopts under Code chapter 622A. The bill provides that
4 in addition to a court or administrative agency being able
5 to inquire into the qualifications and integrity of an
6 interpreter, the court or administrative agency may also
7 inquire into the neutrality of the interpreter. The bill
8 amends the section of Code chapter 622A that provides the
9 authorization for rulemaking to specify interpreters appearing
10 in legal proceedings. The bill provides that an electronic
11 recording of the portion of proceedings where non-English
12 testimony is given shall be made and maintained for one year
13 after the entry of the final disposition or sentence, or if
14 the final judgment is appealed, until one year after the final
15 disposition of the appeal.

16 The bill provides that communications between a
17 limited-English-proficient person and a third party which are
18 privileged under Code chapter 622 in which an interpreter
19 participates as an interpreter shall be privileged with regard
20 to the interpreter.

21 The bill removes a reference to the commission of Latino
22 affairs in a provision relating to the supreme court's
23 consultation with the department of human rights when adopting
24 certain rules under Code chapter 622A.

25 The bill also amends Code chapter 622B, which provides
26 for sign language interpreters for deaf and hard-of-hearing
27 persons.

28 The bill makes the department of public health responsible
29 for the preparation and update of a listing of available sign
30 language interpreters under Code section 622B.4.

31 The bill provides that in addition to a court or
32 administrative agency being able to inquire into the
33 qualifications and integrity of a sign language interpreter,
34 the court or administrative agency may also inquire into the
35 neutrality of the sign language interpreter.

S.F. 2320

1 Code section 815.11 provides appropriations for indigent
2 defense. The bill provides that costs and fees associated
3 with interpreters are not payable from the indigent defense
4 fund. The result of the bill, in part, is that the judicial
5 branch, through the state court administrator, is to assume
6 responsibility for the review and payment of interpreter and
7 translator claims formerly paid from the indigent defense fund.
8 The bill takes effect October 1, 2020.