

Senate Study Bill 3148 - Introduced

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

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.
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 subsections:

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 NEW SUBSECTION. 4. "*Oral language interpreter*" means a
27 person who can accurately transfer the meaning of words or
28 phrases of one oral language into the equivalent words or
29 phrases of a second oral language and from a second oral
30 language into the first oral language.

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

33 ~~622A.2 Who entitled to interpreter~~ Limited-English-proficient
34 persons — when entitled to oral language interpreter.

35 Every limited-English-proficient person who ~~cannot speak~~

1 ~~or understand the English language and who~~ is a party to any
2 legal proceeding or a witness therein, shall be entitled to an
3 oral language interpreter to assist such person throughout the
4 proceeding.

5 Sec. 4. Section 622A.3, subsection 1, Code 2020, is amended
6 to read as follows:

7 1. An oral language interpreter shall be appointed without
8 expense to the limited-English-proficient person ~~requiring~~
9 ~~assistance~~ in the following cases:

10 a. If the person requiring assistance is a witness in the
11 civil legal proceeding.

12 b. If the person requiring assistance is indigent and
13 financially unable to secure an oral language interpreter.

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

17 2. The state court administrator shall pay an oral language
18 interpreter from the revolving fund created in section
19 602.1302, subsection 3, when a limited-English-proficient
20 person is entitled to an oral language interpreter under
21 section 622A.2 and the oral language interpreter services are
22 not provided before an administrative agency. In civil cases,
23 every court shall tax the costs of an oral language interpreter
24 the same as other court costs. In criminal cases, where the
25 defendant is indigent, the oral language interpreter shall be
26 considered as a defendant's witness under rule of criminal
27 procedure 2.15 for the purpose of receiving fees, except that
28 subpoenas shall not be required.

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

31 NEW SUBSECTION. 2A. An administrative agency shall pay an
32 oral language interpreter 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 provided before an administrative agency. The agency may

1 require that the party to the proceeding pay the expense of the
2 oral language interpreter.

3 Sec. 7. Section 622A.3, subsection 3, Code 2020, is amended
4 to read as follows:

5 3. Moneys recovered as court costs for oral language
6 interpreters paid through the revolving fund established in
7 section 602.1302, subsection 3, shall be deposited in that
8 fund.

9 Sec. 8. Section 622A.4, Code 2020, is amended to read as
10 follows:

11 **622A.4 Fee set by court — payment or administrative agency.**

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

19 Sec. 9. Section 622A.5, Code 2020, is amended to read as
20 follows:

21 **622A.5 Oath.**

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

25 Sec. 10. Section 622A.6, Code 2020, is amended to read as
26 follows:

27 **622A.6 Qualifications, neutrality, and integrity.**

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

32 Sec. 11. Section 622A.7, Code 2020, is amended to read as
33 follows:

34 **622A.7 Rules.**

35 The supreme court, after consultation with the commission

1 of Latino affairs of the department of human rights and other
2 appropriate departments, shall adopt rules governing the
3 qualifications and compensation of oral language interpreters
4 appearing in legal proceedings ~~before a court or grand jury~~
5 under this chapter. However, an administrative agency which is
6 subject to chapter 17A may adopt rules differing from those of
7 the supreme court governing the qualifications and compensation
8 of oral language interpreters appearing in proceedings before
9 that agency.

10 Sec. 12. Section 622A.8, Code 2020, is amended to read as
11 follows:

12 **622A.8 ~~Tape~~ Electronic recording of testimony.**

13 ~~A tape~~ An electronic recording of the portion of
14 proceedings where non-English testimony is given shall be
15 made and maintained for one year after the entry of the final
16 disposition or sentence or, if the final judgment is appealed,
17 until one year after the final disposition of the appeal.

18 Sec. 13. NEW SECTION. **622A.9 Privileged communications.**

19 Communications between a limited-English-proficient person
20 and a third party which are privileged under chapter 622 in
21 which an oral language interpreter participates as an oral
22 language interpreter shall be privileged with regard to the
23 oral language interpreter.

24 Sec. 14. Section 622B.1, Code 2020, is amended to read as
25 follows:

26 **622B.1 Definitions — rules.**

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

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

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

35 *c.* "Hard-of-hearing person" means an individual who

1 is unable to hear and distinguish sounds within normal
2 conversational range and who needs to use speechreading,
3 assistive listening devices, or ~~oral interpreters~~ other
4 reasonable accommodations to facilitate communication.

5 ~~d. "Interpreter" means an oral interpreter or sign language~~
6 ~~interpreter.~~

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

9 ~~f. d. "Sign language interpreter" means an interpreter a~~
10 person who is able to interpret from sign language ~~to English~~
11 ~~and English to~~ into an oral language and from an oral language
12 into sign language.

13 2. The supreme court, after consultation with the
14 department of human rights, shall adopt rules governing the
15 qualifications and compensation of sign language interpreters
16 appearing in a legal proceeding ~~before a court, grand jury, or~~
17 before an administrative agency under **this chapter**. However,
18 an administrative agency which is subject to **chapter 17A**
19 may adopt rules differing from those of the supreme court
20 governing the qualifications and compensation of sign language
21 interpreters appearing in proceedings before that agency.

22 Sec. 15. Section 622B.2, Code 2020, is amended to read as
23 follows:

24 **622B.2 Interpreter appointed.**

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

34 Sec. 16. Section 622B.3, Code 2020, is amended to read as
35 follows:

1 **622B.3 Notice of need.**

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

12 Sec. 17. Section 622B.4, Code 2020, is amended to read as
13 follows:

14 **622B.4 List.**

15 The office of deaf services of the department of human rights
16 shall prepare and continually update a listing of qualified
17 and available sign language interpreters. The courts and
18 administrative agencies shall maintain a directory of qualified
19 sign language interpreters for deaf and hard-of-hearing
20 persons as furnished by the department of human rights.
21 The office of deaf services shall maintain a list of sign
22 language interpreters which shall be made available to a court,
23 administrative agency, or interested parties to an action using
24 the services of ~~an~~ a sign language interpreter.

25 Sec. 18. Section 622B.5, Code 2020, is amended to read as
26 follows:

27 **622B.5 Oath.**

28 Before participating in a proceeding, ~~an~~ a sign
29 language interpreter shall take an oath that the sign
30 language interpreter will make a true interpretation in an
31 understandable manner to the person for whom the sign language
32 interpreter is appointed and that the sign language interpreter
33 will interpret or translate the statements of the deaf or
34 hard-of-hearing person to the best of the sign language
35 interpreter's skills and judgment.

1 Sec. 19. Section 622B.6, Code 2020, is amended to read as
2 follows:

3 **622B.6 Privileged communications.**

4 Communication between a deaf or hard-of-hearing person
5 and a third party which is privileged under chapter 622 in
6 which the sign language interpreter participates as ~~an~~ a sign
7 language interpreter shall be privileged to the sign language
8 interpreter.

9 Sec. 20. Section 622B.7, Code 2020, is amended to read as
10 follows:

11 **622B.7 Fee.**

12 ~~An~~ A sign language interpreter appointed under this chapter
13 is entitled to a reasonable fee and expenses as determined
14 by the rules applying to that proceeding. This schedule
15 shall be furnished to all courts and administrative agencies
16 and maintained by them. If the sign language interpreter is
17 appointed by the court, the fee and expenses shall be paid by
18 the county and if the sign language interpreter is appointed by
19 an administrative agency, the fee and expenses shall be paid
20 out of funds available to the administrative agency.

21 Sec. 21. Section 622B.8, Code 2020, is amended to read as
22 follows:

23 **622B.8 Disqualification.**

24 On motion of a party or on its own motion, a court or
25 administrative agency shall inquire into the qualifications,
26 neutrality, and integrity of ~~an~~ a sign language interpreter. A
27 court or administrative agency may disqualify for good reason
28 any person from serving as ~~an~~ a sign language interpreter
29 in that proceeding. If ~~an~~ a sign language interpreter is
30 disqualified, the court or administrative agency shall appoint
31 another sign language interpreter.

32 Sec. 22. Section 815.11, Code 2020, is amended to read as
33 follows:

34 **815.11 Appropriations for indigent defense — fund created.**

35 1. Costs incurred for legal representation by a

1 court-appointed attorney under chapter 229A, 665, 822, or 908,
2 or section 232.141, subsection 3, paragraph "d", or section
3 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or
4 815.10 on behalf of an indigent shall be paid from moneys
5 appropriated by the general assembly to the office of the
6 state public defender in the department of inspections and
7 appeals and deposited in an account to be known as the indigent
8 defense fund, except as provided in subsection 2. Costs
9 incurred representing an indigent defendant in a contempt
10 action, or representing an indigent juvenile in a juvenile
11 court proceeding, are also payable from the fund. However,
12 costs incurred in any administrative proceeding or in any
13 other proceeding under this chapter or chapter 598, 600, 600A,
14 633, 633A, 814, or 915 or other provisions of the Code or
15 administrative rules are not payable from the fund.

16 2. The costs and fees associated with oral language
17 interpreters are not payable from this fund. The costs and
18 fees of an oral language interpreter shall be paid pursuant to
19 section 622A.3 from moneys appropriated by the general assembly
20 to the judicial branch revolving fund created pursuant to
21 section 602.1302, subsection 3.

22 EXPLANATION

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

25 This bill relates to oral language interpreters for
26 limited-English-proficient persons and sign language
27 interpreters for deaf and hard-of-hearing persons.

28 The bill amends Code chapter 622A, which in the bill provides
29 for oral language interpreters for limited-English-proficient
30 persons in legal proceedings.

31 The bill provides new definitions for "limited English
32 proficient" and "oral language interpreter".

33 The bill provides that the state court administrator shall
34 pay oral language interpreters from the revolving fund created
35 in Code section 602.1302(3) when a limited-English-proficient

1 person is entitled to an oral language interpreter and the
2 oral language interpreter services are not provided before
3 an administrative agency. The bill provides that in civil
4 cases, every court shall tax the costs of an oral language
5 interpreter the same as other court costs. In criminal cases,
6 the bill provides that where the defendant is indigent, the
7 oral language interpreter shall be considered as a defendant's
8 witness under rule of criminal procedure 2.15 for the purpose
9 of receiving fees, except that subpoenas are not required.
10 The bill provides that an administrative agency shall pay an
11 oral language interpreter when a limited-English-proficient
12 person is entitled to an oral language interpreter and the
13 oral language interpreter services are provided before an
14 administrative agency. The bill provides that the agency may
15 require that the party to the proceeding pay the expense of the
16 oral language interpreter.

17 The bill provides that an oral language interpreter in a
18 legal proceeding shall take an oath consistent with rules
19 the supreme court adopts under Code chapter 622A. The bill
20 provides that in addition to a court or administrative agency
21 being able to inquire into the qualifications and integrity
22 of an oral language interpreter, the court or administrative
23 agency may also inquire into the neutrality of the oral
24 language interpreter. The bill amends the section of Code
25 chapter 622A that provides the authorization for rulemaking
26 to specify oral language interpreters appearing in legal
27 proceedings. The bill provides that an electronic recording
28 of the portion of proceedings where non-English testimony is
29 given shall be made and maintained for one year after the entry
30 of the final disposition or sentence, or if the final judgment
31 is appealed, until one year after the final disposition of the
32 appeal.

33 The bill provides that communications between a
34 limited-English-proficient person and a third party which are
35 privileged under Code chapter 622 in which an oral language

1 interpreter participates as an oral language interpreter shall
2 be privileged with regard to the oral language interpreter.

3 The bill also amends Code chapter 622B, which provides
4 for sign language interpreters for deaf and hard-of-hearing
5 persons.

6 The bill provides that in addition to a court or
7 administrative agency being able to inquire into the
8 qualifications and integrity of a sign language interpreter,
9 the court or administrative agency may also inquire into the
10 neutrality of the sign language interpreter.

11 Code section 815.11 provides appropriations for indigent
12 defense. The bill provides that costs and fees associated with
13 oral language interpreters are not payable from this fund.