

Senate Study Bill 1108 - Introduced

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

A BILL FOR

1 An Act relating to interpreters and translators for
2 limited-English-proficient, deaf, and hard-of-hearing
3 persons in certain legal proceedings, making appropriations,
4 and including effective date provisions.
5 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 2021, 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 2021, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 1A. "*Interpreter*" means a person who
23 transfers the meaning of spoken or written words in one
24 language into the equivalent meaning in another spoken
25 language.

26 NEW SUBSECTION. 3. "*Limited English proficient*" means the
27 inability to adequately understand or effectively communicate
28 in the English language because a person's primary language is
29 a language other than English.

30 NEW SUBSECTION. 4. "*Translator*" means a person who
31 transfers the meaning of written or spoken words in one
32 language into the equivalent meaning in the written words of
33 another language.

34 Sec. 3. Section 622A.2, Code 2021, is amended to read as
35 follows:

1 **622A.2 Who entitled to interpreter Limited-English-proficient**
2 **persons — when entitled to an interpreter or a translator.**

3 1. ~~Every~~ A limited-English-proficient person ~~who cannot~~
4 ~~speak or understand the English language and~~ who is a party to
5 any legal proceeding or a witness therein, shall be entitled to
6 an interpreter to assist such person throughout the proceeding.

7 2. A limited-English-proficient person who is a party to any
8 legal proceeding shall be entitled to a translator to produce
9 a written translation of written or electronically recorded
10 material only when a court determines that an oral or sign
11 interpretation of the material is not sufficient to ensure due
12 process under the circumstances.

13 Sec. 4. Section 622A.3, subsection 1, unnumbered paragraph
14 1, Code 2021, is amended to read as follows:

15 An interpreter or translator shall be appointed without
16 expense to ~~the~~ a limited-English-proficient person ~~requiring~~
17 ~~assistance~~ in the following cases:

18 Sec. 5. Section 622A.3, subsection 2, Code 2021, is amended
19 by striking the subsection and inserting in lieu thereof the
20 following:

21 2. The state court administrator shall receive, review,
22 and pay fee claims from an interpreter or translator appointed
23 under subsection 1, including all interpreter or translator
24 claims formerly paid from the indigent defense fund. The
25 fees shall be paid from the revolving fund created in section
26 602.1302, subsection 3, when a limited-English-proficient
27 person is entitled to an interpreter or translator under
28 section 622A.2 and the interpreter or translator services are
29 not provided before an administrative agency.

30 Sec. 6. Section 622A.3, Code 2021, is amended by adding the
31 following new subsections:

32 NEW SUBSECTION. 2A. In civil cases, every court shall tax
33 the costs of an interpreter or translator the same as other
34 court costs.

35 NEW SUBSECTION. 2B. In criminal cases, where the defendant

1 is indigent, the interpreter or translator shall be considered
2 as a defendant's witness under rule of criminal procedure 2.15
3 for the purpose of receiving fees, except that subpoenas shall
4 not be required.

5 NEW SUBSECTION. 2C. An administrative agency shall pay
6 an interpreter when a limited-English-proficient person
7 is entitled to an interpreter under section 622A.2 and the
8 interpreter services are provided before an administrative
9 agency. The agency may require that the party to the
10 proceeding pay the expense of the interpreter.

11 Sec. 7. Section 622A.4, Code 2021, 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. 8. Section 622A.5, Code 2021, is amended to read as
22 follows:

23 **622A.5 Oath.**

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

27 Sec. 9. Section 622A.6, Code 2021, 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 or translator, and may disqualify any person from serving as
33 an interpreter or translator.

34 Sec. 10. Section 622A.7, Code 2021, is amended to read as
35 follows:

1 **622A.7 Rules.**

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

12 Sec. 11. Section 622A.8, Code 2021, is amended to read as
13 follows:

14 **622A.8 ~~Tape~~ Electronic recording of testimony.**

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

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

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

26 Sec. 13. Section 622B.1, Code 2021, is amended to read as
27 follows:

28 **622B.1 Definitions — rules.**

29 1. As used in **this chapter**, unless the context otherwise
30 requires:

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

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

1 sign language interpreters to facilitate communication.

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

7 ~~*d.* "Interpreter" means an oral interpreter or sign language~~
8 ~~interpreter.~~

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

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

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

24 Sec. 14. Section 622B.2, Code 2021, is amended to read as
25 follows:

26 **622B.2 Interpreter appointed.**

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

1 Sec. 15. Section 622B.3, Code 2021, is amended to read as
2 follows:

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

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

14 Sec. 16. Section 622B.4, Code 2021, is amended to read as
15 follows:

16 **622B.4 List.**

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

27 Sec. 17. Section 622B.5, Code 2021, is amended to read as
28 follows:

29 **622B.5 Oath.**

30 Before participating in a proceeding, ~~an~~ a sign
31 language interpreter shall take an oath that the sign
32 language interpreter will make a true interpretation in an
33 understandable manner to the person for whom the sign language
34 interpreter is appointed and that the sign language interpreter
35 will interpret or translate the statements of the deaf or

1 hard-of-hearing person to the best of the sign language
2 interpreter's skills and judgment.

3 Sec. 18. Section 622B.6, Code 2021, is amended to read as
4 follows:

5 **622B.6 Privileged communications.**

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

11 Sec. 19. Section 622B.7, Code 2021, is amended to read as
12 follows:

13 **622B.7 Fee.**

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

23 Sec. 20. Section 622B.8, Code 2021, is amended to read as
24 follows:

25 **622B.8 Disqualification.**

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

34 Sec. 21. Section 815.11, Code 2021, is amended to read as
35 follows:

1 **815.11 Appropriations for indigent defense — fund created.**

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

19 2. The costs and fees associated with translators, foreign
20 language interpreters, and sign language interpreters are not
21 payable from this fund. The costs and fees of sign language
22 interpreters shall be paid by the county pursuant to section
23 622B.7, and the costs and fees of translators and foreign
24 language interpreters shall be paid pursuant to section
25 622A.3 from moneys appropriated by the general assembly to the
26 judicial branch revolving fund created pursuant to section
27 602.1302, subsection 3.

28 Sec. 22. INTERPRETERS AND TRANSLATORS — TRANSFER OF
29 ADMINISTRATION AND APPROPRIATION. Moneys appropriated to the
30 indigent defense fund created in section 815.11 for payment of
31 interpreters and translators during the fiscal year beginning
32 July 1, 2021, and ending June 30, 2022, shall be used by
33 the state public defender for payment of costs and fees of
34 interpreters and translators the state public defender has
35 received prior to the effective date of this Act. Moneys

1 appropriated to the indigent defense fund for payment of
2 interpreters and translators during the fiscal year beginning
3 July 1, 2021, and ending June 30, 2022, which remain beginning
4 on the effective date of this Act, having not been disbursed by
5 the state public defender for the fiscal year beginning July
6 1, 2021, and ending June 30, 2022, shall be transferred to the
7 revolving fund under the purview of the judicial branch created
8 pursuant to section 602.1302, subsection 3, for jury and
9 witness fees, mileage, costs related to summoning jurors, costs
10 and fees for interpreters and translators, and reimbursement of
11 attorney fees paid by the state public defender for the fiscal
12 year beginning July 1, 2021, and ending June 30, 2022.

13 Sec. 23. EFFECTIVE DATE. This Act takes effect November 1,
14 2021.

15

EXPLANATION

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

18 This bill relates to interpreters for
19 limited-English-proficient persons and sign language
20 interpreters for deaf and hard-of-hearing persons.

21 The bill amends Code chapter 622A, which in the bill provides
22 for interpreters for limited-English-proficient persons in
23 legal proceedings.

24 The bill defines "interpreter" to mean a person who
25 transfers the meaning of spoken or written words in one
26 language into the equivalent meaning in another spoken
27 language. The bill defines "limited English proficient" to
28 mean the inability to adequately understand or effectively
29 communicate in the English language because a person's primary
30 language is a language other than English. The bill also
31 defines "translator" to mean a person who transfers the meaning
32 of written or spoken words in one language into the equivalent
33 meaning in the written words of another language.

34 The bill provides that the state court administrator shall
35 receive, review, and pay fee claims for interpreters and

1 translators from the revolving fund created in Code section
2 602.1302(3) when a limited-English-proficient person is
3 entitled to an interpreter or translator and the interpreter
4 services are not provided before an administrative agency. The
5 bill provides that in civil cases, every court shall tax the
6 costs of an interpreter or translator the same as other court
7 costs. In criminal cases, the bill provides that where the
8 defendant is indigent, the interpreter shall be considered as
9 a defendant's witness under rule of criminal procedure 2.15
10 for the purpose of receiving fees, except that subpoenas are
11 not required. The bill provides that an administrative agency
12 shall pay an interpreter when a limited-English-proficient
13 person is entitled to an interpreter and the interpreter
14 services are provided before an administrative agency. The
15 bill provides that the agency may require that the party to the
16 proceeding pay the expense of the interpreter.

17 The bill provides that an interpreter or translator 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 interpreter, the court or administrative agency may
23 also inquire into the neutrality of the interpreter, and may
24 do the same with regard to translators. The bill amends the
25 section of Code chapter 622A that provides the authorization
26 for rulemaking to specify interpreters appearing in legal
27 proceedings and adds translators to the provision. The
28 bill provides that an electronic recording of the portion of
29 proceedings where non-English testimony is given shall be
30 made and maintained for one year after the entry of the final
31 disposition or sentence, or if the final judgment is appealed,
32 until one year after the final disposition of the 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 interpreter or

1 translator participates as an interpreter or translator shall
2 be privileged with regard to the 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
13 with interpreters are not payable from the indigent defense
14 fund. The result of the bill, in part, is that the judicial
15 branch, through the state court administrator, is to assume
16 responsibility for the review and payment of interpreter and
17 translator claims formerly paid from the indigent defense fund.

18 The bill provides that moneys appropriated to the indigent
19 defense fund for the payment of interpreters and translators
20 during the fiscal year beginning July 1, 2021, and ending
21 June 30, 2022, shall be used by the state public defender for
22 payment of costs and fees of interpreters and translators
23 received prior to the effective date of the bill. Moneys
24 appropriated to the indigent defense fund for the payment of
25 interpreters and translators during the fiscal year beginning
26 July 1, 2021, and ending June 30, 2022, that have not yet been
27 disbursed by the state public defender as of the effective date
28 of the bill shall be transferred to the revolving fund under
29 the purview of the judicial branch for jury and witness fees,
30 mileage, costs related to summoning jurors, costs and fees for
31 interpreters and translators, and reimbursement of attorney
32 fees paid by the state public defender for that fiscal year.

33 The bill takes effect November 1, 2021.