HOUSE FILE 707
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 445)
(SUCCESSOR TO HSB 70)

(As Amended and Passed by the House March 9, 2021)

[= New Language by the House
* = Language Stricken by the House

A BILL FOR

An Act relating to interpreters and translators for limited-English-proficient, deaf, and hard-of-hearing [persons in certain legal proceedings.]

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 331.424, subsection 1, paragraph a, subparagraph (6), Code 2021, is amended to read as follows:

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

Sec. 2. Section 622A.1, Code 2021, is amended by adding the following new subsections:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

622A.5 Oath.

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

Sec. 9. Section 622A.6, Code 2021, is amended to read as follows:

622A.6 Qualifications, neutrality, and integrity.

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

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

622A.7 Rules.

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

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

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

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

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

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

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

622B.1 Definitions — rules.

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

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

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

sign language interpreters to facilitate communication.

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

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

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

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

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

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

622B.2 Interpreter appointed.

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

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

622B.3 Notice of need.

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

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

622B.4 List.

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

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

622B.5 Oath.

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

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

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

622B.6 Privileged communications.

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

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

622B.7 Fee.

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

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

622B.8 Disqualification.

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

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

815.11 Appropriations for indigent defense — fund created.

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

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

*[Sec. 22. PAYMENT OF INTERPRETERS AND TRANSLATORS. Moneys appropriated to the indigent defense fund created in section 815.11 for payment of interpreters and translators during the fiscal year beginning July 1, 2020, and ending June 30, 2021, shall be used by the state public defender for payment of costs and fees of interpreters and translators for claims the state public defender has received prior to the effective date of this Act.]