

CHAPTER 131
INTERPRETERS FOR HEARING IMPAIRED PERSONS

H.F. 526

AN ACT relating to interpreters for certain hearing impaired persons.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 622B.1, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. "Hearing impaired person" means a person whose hearing is so impaired so that the person cannot understand oral communication when spoken in a normal conversational tone and must rely primarily on sign language to communicate, and also includes a person who, ~~because of a speech or other physical impairment~~, is unable to orally communicate with other persons and therefore relies primarily on sign language to communicate.

Sec. 2. Section 804.31, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

804.31 ARREST OF HEARING IMPAIRED PERSON — USE OF INTERPRETERS.

When a person is detained for questioning or arrested for an alleged violation of a law or ordinance and there is reason to believe that the person is hearing impaired, the peace officer making the arrest or taking the person into custody or any other officer detaining the person shall determine if the person is a hearing impaired person as defined in section 622B.1. If the officer so determines, the officer, at the earliest possible time and prior to commencing any custodial interrogation of the person, shall procure a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court under section 622B.1 unless the hearing impaired person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the Iowa department of health and the Iowa county attorneys association. The interpreter shall interpret the officer's warnings of constitutional rights and protections and all other warnings, statements, and questions spoken or written by any officer, attorney, or other person present and all statements and questions communicated in sign language by the hearing impaired person.

This section does not prohibit the request for and administration of a preliminary breath screening test or the request for and administration of a chemical test of a body substance or substances under chapter 321B prior to the arrival of a qualified interpreter for a hearing impaired person who is believed to have committed a violation of section 321.281. However, upon the arrival of the interpreter the officer who requested the chemical test shall explain through the interpreter the reason for the testing, the consequences of the person's consent or refusal, and the ramifications of the results of the test, if one was administered.

When an interpreter is not readily available and the hearing impaired person's identity is known, the person may be released by the law enforcement agency into the temporary custody of a reliable family member or other reliable person to await the arrival of the interpreter, if the person is eligible for release on bail and is not believed to be an immediate threat to the person's own safety or the safety of others.

An answer, statement, or admission, oral or written, made by a hearing impaired person in reply to a question of a law enforcement officer or any other person having a prosecutorial function in a criminal proceeding is not admissible in court and shall not be used against the hearing impaired person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the hearing impaired person had waived the right to an interpreter pursuant to this section. In the event of a waiver and criminal proceeding, the court shall determine whether the waiver and any subsequent answer, statement, or admission made by the hearing impaired person were knowingly, voluntarily, and intelligently made.

When communication occurs with a person through an interpreter pursuant to this section, all questions or statements and responses shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and hearing impaired parties. An interpreter shall not be compelled to answer any question or respond to any statement that serves to violate that role at the time of questioning or arrest or at any subsequent administrative or judicial proceeding.

An interpreter procured under this section shall be paid a reasonable fee and expenses by the governmental subdivision funding the law enforcement agency that procured the interpreter.

Approved May 15, 1985

CHAPTER 132

VIOLATION OF CUSTODIAL ORDER

H.F. 641

AN ACT relating to the violation of a custodial order and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 710.6, Code 1985, is amended to read as follows:

710.6 VIOLATING CUSTODIAL ORDER.

Any A relative of a child who, acting in violation of any an order of any court which fixes, permanently or temporarily, the custody of such the child in another, takes and removes such child from the state, and conceals the child's whereabouts without the consent of child, within or outside the state, from the person having lawful custody, commits a class "D" felony.

Any parent of a child living apart from the other parent who takes and conceals that child from another within the state in violation of a custodial order and without the other parent's consent shall be guilty of a serious misdemeanor.

Any A parent of a child living apart from the other parent who conceals that child in violation of a court order granting visitation rights and without the other parent's consent, shall be guilty of commits a serious misdemeanor.

Approved May 15, 1985