

CHAPTER 74**SCHOOL LIBRARY TAX IN REORGANIZED DISTRICTS***S.F. 191*

AN ACT relating to the levy of taxes for school libraries in certain school districts.

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

Section 1. Section 298.7, Code 1993, is amended to read as follows:

298.7 CONTRACT FOR USE OF LIBRARY.

1. The board of directors of a school corporation in which there is no free public library may contract with a free public library for the free use of the library by the residents of the school district, and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board shall certify annually a tax sufficient to pay the library the consideration agreed upon, not exceeding twenty cents per thousand dollars of assessed value of the taxable property of the district. During the existence of the contract, the school corporation is relieved from the requirement that the school treasurer withhold funds for library purposes. This section does not apply in townships where a contract for other library facilities is in existence.

2. However, if a school district which is qualified to contract for library services under subsection 1, levies a tax not to exceed twenty cents per thousand dollars of assessed valuation of the taxable property for school library purposes in the fiscal year before a reorganization involving the district, the tax levy shall remain valid for succeeding fiscal years, and shall be levied and collected against the taxable property of the former district which is part of the reorganized district for school library purposes. The contract and the tax levy may be discontinued by a petition signed by eligible electors residing in the former district. The petition requesting the discontinuance must be signed by no fewer than one hundred eligible electors or thirty percent of the number voting at the last preceding school election in the former district, whichever is greater. The petition must be filed with the secretary of the board of directors of the school district at least seventy-five days before the next regular school election. The proposal to discontinue the levy shall be deemed adopted if the vote in favor of the discontinuance is equal to at least a majority of the total vote cast on the proposal by the electors of the former school district.

Approved May 3, 1993

CHAPTER 75**DEAF AND HARD-OF-HEARING PERSONS***S.F. 220*

AN ACT relating to deaf and hard-of-hearing persons by changing definitions and the ability to charge certain interpreter fees as costs in a legal action.

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

Section 1. Section 7E.5, subsection 1, paragraph t, Code 1993, is amended to read as follows:

t. The department of human rights, created in section 216A.1, which has primary responsibility for services relating to Latino persons, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of African-Americans, and deaf and hard-of-hearing persons.

Sec. 2. Section 34.2, subsection 4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A 911 system shall be capable of transmitting requests for law enforcement, fire fighting, and emergency medical and ambulance services to a public safety agency or agencies that provide the requested service at the place where the call originates. A 911 system may also provide for transmitting requests for emergency management, poison control, suicide prevention, and other emergency services. The public safety answering point shall be capable of receiving calls from hearing impaired deaf and hard-of-hearing persons through a telecommunications device for the deaf. Conferencing capability with counseling, aid to handicapped, and other services as deemed necessary for identifying appropriate emergency response services may be provided by the 911 service.

Sec. 3. Section 216A.112, unnumbered paragraph 2, Code 1993, is amended to read as follows: Terms of office are three years and shall begin and end pursuant to section 69.19. The commission shall adopt rules concerning programs and services for deaf and hard-of-hearing persons.

Sec. 4. Section 216A.114, Code 1993, is amended to read as follows:
216A.114 DUTIES OF COMMISSION.

The commission shall:

1. Interpret to communities and to interested persons the needs of the deaf and hard-of-hearing and how their needs may be met through the use of service providers.

2. Obtain without additional cost to the state available office space in public and private agencies which service providers may utilize in carrying out service projects for deaf and hard-of-hearing persons. However, if space is not available in a specific service area without additional cost to the state, the commission may obtain other office space which is ~~colocated~~ located with other public or private agencies. The space shall be obtained at the lowest cost available and the terms of the lease must be approved by the director of the department of general services.

3. Establish service projects for deaf and hard-of-hearing persons throughout the state. Projects shall not be undertaken by service providers for compensation which would duplicate existing services when those services are available to deaf people and hard-of-hearing persons through paid interpreters or other persons able to communicate with deaf people and hard-of-hearing persons.

As used in this section, "service projects" includes interpretation services for persons who are deaf and hard-of-hearing, referral and counseling services for deaf people and hard-of-hearing persons in the areas of adult education, legal aid, employment, medical, finance, housing, recreation, and other personal assistance and social programs.

"Service providers" are persons who, for compensation or on a volunteer basis, carry out service projects.

4. Identify agencies, both public and private, which provide community services, evaluate the extent to which they make services available to deaf people and hard-of-hearing persons, and cooperate with the agencies in coordinating and extending these services.

5. Collect information concerning deafness or hearing loss and provide for the dissemination of the information.

6. Provide for the mutual exchange of ideas and information on services for deaf people and hard-of-hearing persons between federal, state, and local governmental agencies and private organizations and individuals.

7. Pursuant to section 216A.2, be responsible for budgeting and personnel decisions for the commission and division.

Sec. 5. Section 216C.10, Code 1993, is amended to read as follows:
216C.10 USE OF HEARING DOG.

A deaf or hard-of-hearing person has the right to be accompanied by a hearing dog, under control and especially trained at a recognized training facility to assist the deaf or hard-of-hearing by responding to sound, in any place listed in sections 216C.3 and 216C.4 without being required to make additional payment for the hearing dog. A landlord shall waive lease restrictions on the keeping of dogs for a deaf or hard-of-hearing person with a hearing dog. The

deaf or hard-of-hearing person is liable for damage done to any premise or facility by a hearing dog.

A person who denies or interferes with the right of a deaf or hard-of-hearing person under this section is, upon conviction, guilty of a simple misdemeanor.

Sec. 6. Section 477C.1, Code 1993, is amended to read as follows:

477C.1 DUAL PARTY RELAY SERVICE — PURPOSE.

The general assembly finds that the provision of a statewide dual party relay service will further the public interest and protect the health, safety, and welfare of the people of Iowa through an increase in the usefulness and availability of the telephone system. Many deaf, hearing-impaired hard-of-hearing, and speech-impaired persons are not able to utilize the telephone system without this type of service. Therefore, it is the purpose of this chapter to enable the orderly development, operation, promotion, and funding of a statewide dual party relay service.

Sec. 7. Section 622B.1, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

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 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 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. "Sign language interpreter" means an interpreter who is able to interpret from sign language to English and English to sign language.

Sec. 8. Section 622B.2, Code 1993, is amended to read as follows:

622B.2 INTERPRETER APPOINTED.

If a hearing impaired deaf or hard-of-hearing person is a party to, or 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 interpreter without expense to the hearing impaired deaf or hard-of-hearing person to interpret or translate the proceedings to the hearing impaired deaf or hard-of-hearing person and to interpret or translate the person's testimony unless the hearing impaired deaf or hard-of-hearing person waives the right to an interpreter.

Sec. 9. Section 622B.3, Code 1993, is amended to read as follows:

622B.3 NOTICE OF NEED.

When a hearing impaired deaf or hard-of-hearing person is entitled to an interpreter, the hearing impaired 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 interpreter. If the hearing impaired 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 interpreter as soon as practicable or may apply for a continuance until an interpreter is appointed.

Sec. 10. Section 622B.4, Code 1993, is amended to read as follows:

622B.4 LIST.

The division of deaf services of the department of human rights shall prepare and continually update a listing of qualified and available interpreters. The courts and administrative agencies shall maintain a directory of qualified interpreters for hearing impaired deaf and hard-of-hearing persons as furnished by the department of human rights. The division of deaf

services shall maintain information on the qualifications of interpreters, which information is confidential except to a court, administrative agency, or interested parties to an action using the services of an interpreter.

Sec. 11. Section 622B.5, Code 1993, is amended to read as follows:

622B.5 OATH.

Before participating in a proceeding, an interpreter shall take an oath that the interpreter will make a true interpretation in an understandable manner to the person for whom the interpreter is appointed and that the interpreter will interpret or translate the statements of the hearing impaired deaf or hard-of-hearing person to the best of the interpreter's skills and judgment.

Sec. 12. Section 622B.6, Code 1993, is amended to read as follows:

622B.6 PRIVILEGED.

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

Sec. 13. Section 622B.7, Code 1993, is amended to read as follows:

622B.7 FEE.

An 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 interpreter is appointed by the court, the fee and expenses shall be paid by the county and if the interpreter is appointed by an administrative agency, the fee and expenses shall be paid out of funds available to the administrative agency. ~~If a hearing impaired person is not a party to the action, the fees and expenses of an interpreter shall be charged to costs.~~

Sec. 14. Section 804.31, Code 1993, is amended to read as follows:

804.31 ARREST OF HEARING IMPAIRED DEAF OR HARD-OF-HEARING PERSON — USE OF INTERPRETERS — FEE.

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 deaf or hard-of-hearing, 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 deaf or hard-of-hearing 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 deaf or hard-of-hearing person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the department of human rights 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 deaf or hard-of-hearing 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 321J prior to the arrival of a qualified interpreter for a hearing impaired deaf or hard-of-hearing person who is believed to have committed a violation of section 321J.2. 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 deaf or hard-of-hearing 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 deaf or hard-of-hearing 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 deaf or hard-of-hearing person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the hearing impaired deaf or hard-of-hearing 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 deaf or hard-of-hearing 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 deaf or hard-of-hearing 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 3, 1993

CHAPTER 76

CHILD ABUSE, DEPENDENT ADULT ABUSE, CHILD CARE, AND JUVENILE SHELTER CARE

S.F. 221

AN ACT relating to department of human services' statutory provisions involving child abuse information, dependent adult abuse, child day care, and juvenile shelter care.

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

DIVISION I CHILD ABUSE PROVISIONS

Section 1. Section 232.68, subsection 2, Code 1993, is amended by adding the following new paragraph after paragraph a and relettering the succeeding paragraphs:

NEW PARAGRAPH. b. Any mental injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

Sec. 2. Section 232.116, subsection 1, paragraph 1, Code 1993, is amended to read as follows:

1. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused or neglected as a result of the acts or omissions of a parent.