

Providing Interpreters in a Legal Proceeding and at Time of Arrest

The Code of Iowa, Chapters 622B and 804.31 define the rights of deaf and hard of hearing people in a legal proceeding and at time of arrest. Both of these chapters refer to the Iowa Supreme Court Rules that govern the qualifications of interpreters in this two situations. Interpreters are qualified if they hold the following credential/s from the Registry of Interpreters for the Deaf, Inc.: MCSC, CSC, CI & CT, or SC:L.

2003 IOWA CODE

CHAPTER 622B DEAF AND HARD-OF-HEARING PERSONS -- INTERPRETERS

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 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.

2. The supreme court, after consultation with the department of human rights, shall adopt rules governing the qualifications and compensation of interpreters appearing in a proceeding before a

court, grand jury, or 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 interpreters appearing in proceedings before that agency.

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 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 interpreter.

622B.3 Notice of need.

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

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 deaf and hard-of-hearing persons as furnished by the department of human rights. The division of deaf services shall maintain a list of interpreters which shall be made available to a court, administrative agency, or interested parties to an action using the services of an interpreter.

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 deaf or hard-of-hearing person to the best of the interpreter's skills and judgment.

622B.6 Privileged.

Communication between a 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.

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.

622B.8 Disqualification.

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

CHAPTER 804.31 ARREST OF 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 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 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 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 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 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 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 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 deaf or hard-of-hearing person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the 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 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 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.

IOWA COURT RULES **FOURTH EDITION**

CHAPTER 14 RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR HEARING-IMPAIRED PERSONS

Rule 14.1 Appointment and qualifications of interpreters.

When required to appoint an interpreter for a deaf or hard-of-hearing person pursuant to Iowa Code section 622B.2, the court or administrative agency shall select an interpreter from the current directory of qualified interpreters for deaf or hard-of-hearing persons furnished by the service program for the deaf of the Iowa state department of human rights and available from the department of human rights or the state court administrator's office. Interpreters listed in the directory shall be certified under the National Testing System of the Registry of Interpreters for the Deaf and shall demonstrate one or more of the following certifications, commensurate with their training and experience: (1) a valid comprehensive skills certificate (CSC), (2) both a certificate of interpretation (CI) and a certificate of transliteration (CT), (3) a master comprehensive skills certificate (MCSC), or (4) a specialist certificate: legal (SC:L). Selection of a particular interpreter shall be based on availability, proximity to the venue of the proceeding, and the level of interpreter expertise needed regarding the complexity of the proceeding and the deaf or hard-of-hearing person's role in the proceeding. [Court Order June 23, 1980; August 20, 1993, effective January 3, 1994; January 3, 1994, effective February 4, 1994; November 9, 2001, effective February 15, 2002; August 29, 2002]

Rule 14.2 Compensation-appointment of more than one interpreter.

After selecting an appropriate interpreter, the court or administrative agency shall enter an order appointing the interpreter and setting the level of compensation for the interpreter. Where a deaf or hard-of-hearing person is a party to a complex proceeding or is a witness giving lengthy testimony, the court or administrative agency may, in its discretion, appoint more than one interpreter. An interpreter appointed under Iowa Code section 622B.2 shall be entitled to reasonable compensation. Appointed interpreters are also entitled to compensation for mileage at the same rate paid witnesses in district court. [Court Order June 23, 1980; March 27, 1990, effective May 1, 1990; August 20, 1993, effective January 3, 1994; November 9, 2001, effective February 15, 2002]

Rule 14.3 Claim for compensation.

After the close of proceedings the interpreter shall submit to the court or administrative agency a voucher specifically listing the hours spent on the appointment and any mileage claims. Upon review and approval of the voucher, the court or administrative agency shall enter an order setting the total amount of compensation due the interpreter and directing such compensation paid out of county funds or administrative agency funds as provided in Iowa Code section 622B.7. [Court Order June 23, 1980; August 20, 1993, effective January 3, 1994; November 9, 2001, effective February 15, 2002]

For more information on securing and providing interpreting services, please contact us at:



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