

SUBSTITUTE FOR
HOUSE BILL NO. 4208

A bill to amend 1982 PA 204, entitled
"Deaf persons' interpreters act,"
by amending the title and sections 2, 3, 4, 5, 6, 7, and 8 (MCL
393.502, 393.503, 393.504, 393.505, 393.506, 393.507, and 393.508),
section 8 as amended by 1988 PA 435, and by adding sections 3a, 8a,
and 8b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8

TITLE

An act to provide for and regulate the use of interpreters in
administrative and judicial proceedings and in certain other
instances; to establish standards for interpreters; ~~and~~ to provide
compensation for interpreters; ~~7~~ **TO PRESCRIBE THE POWERS AND DUTIES
OF CERTAIN STATE DEPARTMENTS AND AGENCIES; TO PRESCRIBE PENALTIES
FOR THE VIOLATION OF THE PROVISIONS OF THIS ACT;** and to provide for
the promulgation of rules.

1 Sec. 2. As used in this act:

2 (a) "Appointing authority" means a court or a department,
3 board, commission, agency, or licensing authority of this state or
4 a political subdivision of this state **OR AN ENTITY THAT PROVIDES A**
5 **QUALIFIED INTERPRETER IN CIRCUMSTANCES DESCRIBED UNDER SECTION 3A.**

6 ~~(b) "Certified interpreter" means, depending upon the need of~~
7 ~~the deaf person, either a certified oral interpreter or a certified~~
8 ~~sign language interpreter.~~

9 ~~(c) "Certified oral interpreter" means a person who is able to~~
10 ~~convey information through facial and lip movement, and is~~
11 ~~certified by an organization which the division of deaf and~~
12 ~~deafened of the department of labor determines is an organization~~
13 ~~nationally recognized for the certification of persons who~~
14 ~~interpret for deaf persons.~~

15 ~~(d) "Certified sign language interpreter" means an interpreter~~
16 ~~who uses sign language to convey information and who is certified~~
17 ~~by an organization which the division of deaf and deafened of the~~
18 ~~department of labor determines is an organization nationally~~
19 ~~recognized for the certification of persons who interpret for deaf~~
20 ~~persons.~~

21 **(B)** ~~(e)~~ "Deaf person" means a person whose hearing is totally
22 impaired or whose hearing, with or without amplification, is so
23 seriously impaired that the primary means of receiving spoken
24 language is through other sensory input; including, but not limited
25 to, lip reading, sign language, finger spelling, or reading.

26 **(C) "DEAF-BLIND PERSON" MEANS A PERSON WHO HAS A COMBINATION**
27 **OF HEARING LOSS AND VISION LOSS, SUCH THAT THE COMBINATION**

1 NECESSITATES SPECIALIZED INTERPRETATION OF SPOKEN AND WRITTEN
2 INFORMATION IN A MANNER APPROPRIATE TO THAT PERSON'S DUAL SENSORY
3 LOSS.

4 (D) ~~(f)~~ "Intermediary interpreter" OR "DEAF INTERPRETER" means
5 any person, including any ~~hearing-impaired-DEAF OR DEAF-BLIND~~
6 person, who is able to assist in providing an accurate
7 interpretation between spoken English and sign language or between
8 variants of sign language by acting as an intermediary between a
9 ~~hearing-impaired-DEAF OR DEAF-BLIND~~ person and a ~~certified~~
10 ~~interpreter or qualified interpreter.~~

11 ~~—— (g) "Qualified interpreter" means a person who is not a~~
12 ~~certified interpreter but whose qualifications for interpreting for~~
13 ~~deaf persons are determined by the division of deaf and deafened of~~
14 ~~the department of labor, with the advice of the Michigan~~
15 ~~association of deaf citizens and Michigan registry of interpreters~~
16 ~~for the deaf or their successor agencies, to be appropriate for~~
17 ~~interpreting for deaf persons.~~

18 (E) "QUALIFIED INTERPRETER" MEANS A PERSON WHO IS CERTIFIED
19 THROUGH THE NATIONAL REGISTRY OF INTERPRETERS FOR THE DEAF OR ANY
20 OTHER NATIONAL ORGANIZATION RECOGNIZED BY THE DIVISION ON DEAF AND
21 HARD OF HEARING OR CERTIFIED THROUGH THE STATE BY THE DIVISION ON
22 DEAF AND HARD OF HEARING WITH ADVICE FROM THE MICHIGAN DEAF
23 ASSOCIATION AND THE MICHIGAN REGISTRY OF INTERPRETERS FOR THE DEAF
24 OR THEIR SUCCESSOR AGENCIES WITH THE EXPRESSIVE-RECEPTIVE SKILLS
25 AND NECESSARY VOCABULARY FOR THE SITUATION.

26 (F) "QUALIFIED ORAL INTERPRETER" MEANS A QUALIFIED INTERPRETER
27 WHO IS ABLE TO CONVEY INFORMATION THROUGH FACIAL AND LIP MOVEMENT.

1 (G) "QUALIFIED SIGN LANGUAGE INTERPRETER" MEANS A QUALIFIED
2 INTERPRETER WHO USES SIGN LANGUAGE TO CONVEY INFORMATION.

3 Sec. 3. (1) In any action before a court or a grand jury where
4 a deaf **OR DEAF-BLIND** person is a participant in the action, either
5 as a plaintiff, defendant, or witness, the court shall appoint a
6 ~~certified interpreter or in its discretion, appoint a~~ qualified
7 interpreter ~~7~~ to interpret the proceedings to the deaf **OR DEAF-**
8 **BLIND** person, to interpret the deaf **OR DEAF-BLIND** person's
9 testimony or statements, and to assist in preparation of the action
10 with the deaf **OR DEAF-BLIND** person's counsel.

11 (2) In a proceeding before an appointing authority, other than
12 a court, the appointing authority shall appoint a ~~certified~~
13 ~~interpreter or in its discretion, appoint a~~ qualified interpreter ~~7~~
14 to interpret the proceedings to the deaf **OR DEAF-BLIND** person and
15 to interpret the deaf **OR DEAF-BLIND** person's testimony or
16 statements in any proceeding before the appointing authority.

17 (3) The right of a deaf **OR DEAF-BLIND** person to a ~~certified~~
18 ~~interpreter or~~ qualified interpreter shall not be waived except by
19 a request for waiver in writing by the deaf **OR DEAF-BLIND** person. A
20 written waiver of a plaintiff or defendant is subject to the
21 approval of the deaf **OR DEAF-BLIND** person's counsel and the
22 approval of the appointing authority.

23 (4) A ~~certified interpreter or~~ qualified interpreter shall not
24 be appointed unless the appointing authority and the deaf **OR DEAF-**
25 **BLIND** person make a preliminary determination that ~~that certified~~
26 ~~interpreter or~~ **THE** qualified interpreter is able to readily
27 communicate with the deaf **OR DEAF-BLIND** person and to interpret the

1 proceedings in which the deaf **OR DEAF-BLIND** person is involved.

2 (5) If a ~~certified interpreter or~~ qualified interpreter states
3 that the interpreter is unable to render a satisfactory
4 interpretation and that an intermediary interpreter **OR DEAF**
5 **INTERPRETER** will improve the quality of the interpretation, the
6 appointing authority shall appoint an intermediary interpreter **OR**
7 **DEAF INTERPRETER** to assist the ~~certified interpreter or~~ qualified
8 interpreter.

9 **SEC. 3A. IF AN ACCOMMODATION IS MADE FOR A DEAF OR DEAF-BLIND**
10 **PERSON IN CIRCUMSTANCES ENUMERATED IN THE AMERICANS WITH**
11 **DISABILITIES ACT OF 1990, PUBLIC LAW 101-336, THE INTERPRETER SHALL**
12 **BE A QUALIFIED INTERPRETER.**

13 Sec. 4. (1) Each deaf **OR DEAF-BLIND** person whose appearance in
14 an action or other proceeding entitles the deaf **OR DEAF-BLIND**
15 person to a ~~certified interpreter or~~ qualified interpreter shall
16 notify the appointing authority of the need of a ~~certified~~
17 ~~interpreter or~~ qualified interpreter before the appearance.

18 (2) An appointing authority, when it knows a deaf **OR DEAF-**
19 **BLIND** person is, or will be coming before it, shall inform the deaf
20 **OR DEAF-BLIND** person of the right to a ~~certified interpreter or~~
21 qualified interpreter.

22 (3) An appointing authority may require a person requesting
23 the appointment of a ~~certified interpreter or~~ qualified interpreter
24 to furnish reasonable proof of the person's deafness, if the
25 appointing authority has reason to believe that the person is not
26 deaf **OR DEAF-BLIND**.

27 Sec. 5. (1) If a deaf **OR DEAF-BLIND** person is arrested and

1 taken into custody for any alleged violation of a criminal law of
2 this state, the arresting officer and the officer's supervisor
3 shall procure a ~~certified interpreter or~~ qualified interpreter in
4 order to properly interrogate the deaf **OR DEAF-BLIND** person and to
5 interpret the deaf **OR DEAF-BLIND** person's statements.

6 (2) A statement taken from a deaf **OR DEAF-BLIND** person before
7 a ~~certified interpreter or~~ qualified interpreter is present shall
8 not be admissible in court.

9 Sec. 6. (1) Before a ~~certified interpreter or~~ qualified
10 interpreter participates in any action or other proceeding because
11 of an appointment under this act, the ~~certified interpreter or~~
12 qualified interpreter shall make an oath or affirmation that the
13 ~~certified interpreter or~~ qualified interpreter will make a true
14 interpretation in an understandable manner to the deaf **OR DEAF-**
15 **BLIND** person for whom the ~~certified interpreter or~~ qualified
16 interpreter is appointed and that the ~~certified interpreter or~~
17 qualified interpreter will interpret the statements of the deaf **OR**
18 **DEAF-BLIND** person in the English language to the best of the
19 interpreter's skill. The appointing authority shall provide recess
20 periods as necessary for the ~~certified interpreter or~~ qualified
21 interpreter when the ~~certified interpreter or~~ qualified interpreter
22 so indicates.

23 (2) The information that the ~~certified interpreter, qualified~~
24 interpreter, ~~or~~ intermediary interpreter, **OR DEAF INTERPRETER**
25 gathers from the deaf **OR DEAF-BLIND** person pertaining to any action
26 or other **PENDING** proceeding ~~then pending~~ shall at all times remain
27 confidential and privileged, unless the deaf **OR DEAF-BLIND** person

1 executes a written waiver allowing the information to be
2 communicated to other persons and the deaf **OR DEAF-BLIND** person is
3 present at the time the information is communicated.

4 Sec. 7. (1) A court appointed interpreter, qualified
5 interpreter, ~~or~~ intermediary interpreter, **OR DEAF INTERPRETER** shall
6 be paid a fee by the court ~~which~~ **THAT** it determines to be
7 reasonable. A ~~certified interpreter,~~ qualified interpreter, ~~or~~
8 intermediary interpreter, **OR DEAF INTERPRETER** appointed by an
9 appointing authority other than a court shall be paid a fee by the
10 appointing authority. ~~under a schedule of fees promulgated by the~~
11 ~~division of deaf and deafened of the department of labor with the~~
12 ~~advice of the Michigan registry of interpreter, for the deaf,~~
13 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended,~~
14 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~ In
15 addition, a ~~certified interpreter,~~ qualified interpreter, ~~or~~
16 intermediary interpreter, **OR DEAF INTERPRETER** shall be paid for his
17 or her actual expenses for travel, meals, and lodging.

18 (2) If the ~~certified interpreter,~~ qualified interpreter, ~~or~~
19 intermediary interpreter, **OR DEAF INTERPRETER** is appointed by an
20 appointing authority other than a court, the fee shall be paid out
21 of funds available to the appropriate appointing authority.

22 (3) A ~~certified interpreter or~~ qualified interpreter appointed
23 for the deaf **OR DEAF-BLIND** person shall be available for the
24 duration of the deaf **OR DEAF-BLIND** person's participation in the
25 action or other proceeding.

26 Sec. 8. (1) The appointing authority shall channel requests
27 for ~~certified interpreters,~~ qualified interpreters, ~~and~~

1 intermediary interpreters, **AND DEAF INTERPRETERS** through the
2 division on ~~deafness of the department of labor~~ **DEAF AND HARD OF**
3 **HEARING**.

4 (2) The division on ~~deafness of the department of labor~~ **DEAF**
5 **AND HARD OF HEARING** shall compile and update annually a listing of
6 ~~certified interpreters, qualified interpreters, and intermediary~~
7 ~~interpreters, AND DEAF INTERPRETERS~~ and shall make this listing
8 available to an appointing authority ~~which~~ **THAT** may need the
9 services of a ~~certified interpreter, qualified interpreter, or~~
10 ~~intermediary interpreter, OR DEAF INTERPRETER~~ as required by this
11 act.

12 **SEC. 8A. THE DIVISION ON DEAF AND HARD OF HEARING OF THE**
13 **MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH WITH THE ADVICE OF**
14 **THE MICHIGAN REGISTRY OF INTERPRETERS OF THE DEAF AND THE MICHIGAN**
15 **DEAF ASSOCIATION SHALL PROMULGATE RULES UNDER THE ADMINISTRATIVE**
16 **PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, TO**
17 **ENFORCE AND ADMINISTER THIS ACT.**

18 **SEC. 8B. (1) A PERSON WHO KNOWS THAT HE OR SHE DOES NOT MEET**
19 **THE DEFINITION OF QUALIFIED INTERPRETER UNDER THIS ACT AND**
20 **MISREPRESENTS HIMSELF OR HERSELF AS A QUALIFIED INTERPRETER IS**
21 **GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE**
22 **THAN 90 DAYS OR A FINE OF NOT LESS THAN \$500.00 OR MORE THAN**
23 **\$1,000.00, OR BOTH.**

24 (2) **AN APPOINTING AUTHORITY OTHER THAN A COURT THAT VIOLATES**
25 **THE PROVISIONS OF THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE BY**
26 **A FINE OF NOT LESS THAN \$1,000.00 AND NOT MORE THAN \$10,000.00.**

27 (3) **AN APPLICANT TO BECOME CERTIFIED AS A QUALIFIED**

1 INTERPRETER THROUGH THE STATE BY THE DIVISION FOR THE DEAF AND HARD
2 OF HEARING OR A QUALIFIED INTERPRETER CERTIFIED THROUGH THE STATE
3 BY THE DIVISION FOR DEAF AND HARD OF HEARING WHO VIOLATES THE
4 PROVISIONS OF THIS ACT IS SUBJECT TO 1 OR MORE OF THE FOLLOWING
5 ACTIONS BY THE DIVISION FOR THE DEAF AND HARD OF HEARING:

6 (A) REJECTION OF HIS OR HER APPLICATION FOR CERTIFICATION AS A
7 QUALIFIED INTERPRETER UNDER THIS ACT.

8 (B) REVOCATION, SUSPENSION, OR LIMITATION OF HIS OR HER
9 CERTIFICATION AS A QUALIFIED INTERPRETER UNDER THIS ACT.