

HOUSE BILL No. 4208

February 7, 2007, Introduced by Reps. Spade, Miller, Clemente, LeBlanc, Coulouris and Leland and referred to the Committee on Regulatory Reform.

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, 3b, 3c, 3d, 3e, 8a, and 8b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

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

1 the promulgation of rules.

2 Sec. 2. As used in this act:

3 (a) "Appointing authority" means a court or a department,
4 board, commission, agency, or licensing authority of this state or
5 a political subdivision of this state **OR AN ATTORNEY, A MEDICAL**
6 **PROVIDER, A FINANCIAL INSTITUTION, AN EMPLOYER, OR AN EDUCATIONAL**
7 **INSTITUTION.**

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

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

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

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

1 (C) "DEAF-BLIND PERSON" MEANS A PERSON WHO HAS A COMBINATION
2 OF HEARING LOSS AND VISION LOSS, SUCH THAT THE COMBINATION
3 NECESSITATES SPECIALIZED INTERPRETATION OF SPOKEN AND WRITTEN
4 INFORMATION IN A MANNER APPROPRIATE TO THAT PERSON'S DUAL SENSORY
5 LOSS.

6 (D) "EDUCATIONAL INSTITUTION" MEANS A PUBLIC OR PRIVATE
7 INSTITUTION OR A SEPARATE SCHOOL OR DEPARTMENT OF A PUBLIC OR
8 PRIVATE INSTITUTION, AND INCLUDES AN ACADEMY, COLLEGE, ELEMENTARY
9 OR SECONDARY SCHOOL, EXTENSION COURSE, KINDERGARTEN, NURSERY,
10 SCHOOL SYSTEM, SCHOOL DISTRICT, OR UNIVERSITY, AND A BUSINESS,
11 NURSING, PROFESSIONAL, SECRETARIAL, TECHNICAL, OR VOCATIONAL
12 SCHOOL, AND INCLUDES AN AGENT OF AN EDUCATIONAL INSTITUTION.

13 (E) "EMPLOYER" MEANS A PERSON WHO HAS 1 OR MORE EMPLOYEES OR A
14 PERSON WHO AS CONTRACTOR OR SUBCONTRACTOR IS FURNISHING MATERIAL OR
15 PERFORMING WORK FOR THE STATE OR A GOVERNMENTAL ENTITY OR AGENCY OF
16 THE STATE AND INCLUDES AN AGENT OF SUCH A PERSON.

17 (F) "FINANCIAL INSTITUTION" MEANS A STATE OR NATIONALLY
18 CHARTERED BANK OR A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN
19 ASSOCIATION, SAVINGS BANK, OR CREDIT UNION WHOSE DEPOSITS ARE
20 INSURED BY AN AGENCY OF THE UNITED STATES GOVERNMENT AND THAT
21 MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE LOCATED IN THIS STATE
22 UNDER THE LAWS OF THIS STATE OR THE UNITED STATES.

23 (G) ~~(f)~~—"Intermediary interpreter" OR "DEAF INTERPRETER" means
24 any person, including any ~~hearing-impaired-DEAF OR DEAF-BLIND~~
25 person, who is able to assist in providing an accurate
26 interpretation between spoken English and sign language or between
27 variants of sign language by acting as an intermediary between a

1 ~~hearing-impaired-DEAF OR DEAF-BLIND~~ person and a ~~certified~~
 2 ~~interpreter or~~ qualified interpreter.

3 ~~—— (g) "Qualified interpreter" means a person who is not a~~
 4 ~~certified interpreter but whose qualifications for interpreting for~~
 5 ~~deaf persons are determined by the division of deaf and deafened of~~
 6 ~~the department of labor, with the advice of the Michigan~~
 7 ~~association of deaf citizens and Michigan registry of interpreters~~
 8 ~~for the deaf or their successor agencies, to be appropriate for~~
 9 ~~interpreting for deaf persons.~~

10 (H) "QUALIFIED INTERPRETER" MEANS A PERSON WHO IS CERTIFIED
 11 THROUGH THE NATIONAL REGISTRY OF INTERPRETERS FOR THE DEAF OR ANY
 12 OTHER NATIONAL ORGANIZATION RECOGNIZED BY THE DIVISION ON DEAF AND
 13 HARD OF HEARING OR CERTIFIED THROUGH THE STATE BY THE DIVISION ON
 14 DEAF AND HARD OF HEARING WITH ADVICE FROM THE MICHIGAN DEAF
 15 ASSOCIATION AND THE MICHIGAN REGISTRY OF INTERPRETERS FOR THE DEAF
 16 OR THEIR SUCCESSOR AGENCIES WITH THE EXPRESSIVE-RECEPTIVE SKILLS
 17 AND NECESSARY VOCABULARY FOR THE SITUATION.

18 (I) "QUALIFIED ORAL INTERPRETER" MEANS A QUALIFIED INTERPRETER
 19 WHO IS ABLE TO CONVEY INFORMATION THROUGH FACIAL AND LIP MOVEMENT.

20 (J) "QUALIFIED SIGN LANGUAGE INTERPRETER" MEANS A QUALIFIED
 21 INTERPRETER WHO USES SIGN LANGUAGE TO CONVEY INFORMATION.

22 Sec. 3. (1) In any action before a court or a grand jury where
 23 a deaf OR DEAF-BLIND person is a participant in the action, either
 24 as a plaintiff, defendant, or witness, the court shall appoint a
 25 ~~certified interpreter or in its discretion, appoint a~~ qualified
 26 interpreter ~~, to~~ interpret the proceedings to the deaf OR DEAF-
 27 BLIND person, to interpret the deaf OR DEAF-BLIND person's

1 testimony or statements, and to assist in preparation of the action
2 with the deaf **OR DEAF-BLIND** person's counsel.

3 (2) In a proceeding before an appointing authority, other than
4 a court, the appointing authority shall appoint a ~~certified~~
5 ~~interpreter or in its discretion, appoint a~~ qualified interpreter ~~7~~
6 to interpret the proceedings to the deaf **OR DEAF-BLIND** person and
7 to interpret the deaf **OR DEAF-BLIND** person's testimony or
8 statements in any proceeding before the appointing authority.

9 (3) **IN ANY SITUATION IN A LEGAL SETTING IN WHICH A DEAF OR**
10 **DEAF-BLIND PERSON IS A PARTICIPANT, THE ATTORNEY SHALL APPOINT A**
11 **QUALIFIED INTERPRETER TO INTERPRET FOR THE DEAF OR DEAF-BLIND**
12 **PERSON.**

13 (4) ~~(3)~~ The right of a deaf **OR DEAF-BLIND** person to a
14 ~~certified interpreter or~~ qualified interpreter shall not be waived
15 except by a request for waiver in writing by the deaf **OR DEAF-BLIND**
16 person. A written waiver of a plaintiff or defendant is subject to
17 the approval of the deaf **OR DEAF-BLIND** person's counsel and the
18 approval of the appointing authority.

19 (5) ~~(4)~~ A ~~certified interpreter or~~ qualified interpreter shall
20 not be appointed unless the appointing authority and the deaf **OR**
21 **DEAF-BLIND** person make a preliminary determination that ~~that~~
22 ~~certified interpreter or~~ **THE** qualified interpreter is able to
23 readily communicate with the deaf **OR DEAF-BLIND** person and to
24 interpret the proceedings in which the deaf **OR DEAF-BLIND** person is
25 involved.

26 (6) ~~(5)~~ If a ~~certified interpreter or~~ qualified interpreter
27 states that the interpreter is unable to render a satisfactory

1 interpretation and that an intermediary interpreter **OR DEAF**
2 **INTERPRETER** will improve the quality of the interpretation, the
3 appointing authority shall appoint an intermediary interpreter **OR**
4 **DEAF INTERPRETER** to assist the ~~certified interpreter or qualified~~
5 interpreter.

6 SEC. 3A. IN ANY MEDICAL SITUATION INVOLVING A MEDICAL PROVIDER
7 AND A DEAF OR DEAF-BLIND PERSON, THE MEDICAL PROVIDER SHALL APPOINT
8 A QUALIFIED INTERPRETER TO INTERPRET FOR THE DEAF OR DEAF-BLIND
9 PERSON.

10 SEC. 3B. IN ANY TRANSACTION WITH A FINANCIAL INSTITUTION IN
11 WHICH A DEAF OR DEAF-BLIND PERSON IS PARTICIPATING, THE FINANCIAL
12 INSTITUTION SHALL APPOINT A QUALIFIED INTERPRETER TO INTERPRET FOR
13 THE DEAF OR DEAF-BLIND PERSON.

14 SEC. 3C. IN ANY EMPLOYMENT SITUATION IN WHICH A DEAF OR DEAF-
15 BLIND PERSON IS INVOLVED, THE EMPLOYER SHALL APPOINT A QUALIFIED
16 INTERPRETER FOR THE DEAF OR DEAF-BLIND PERSON.

17 SEC. 3D. IN ANY TRANSACTION, PROCEEDING, OR OTHER INTERACTION
18 WITH A GOVERNMENTAL UNIT IN WHICH A DEAF OR DEAF-BLIND PERSON IS
19 INVOLVED, THE GOVERNMENTAL UNIT SHALL APPOINT A QUALIFIED
20 INTERPRETER FOR THE DEAF OR DEAF-BLIND PERSON.

21 SEC. 3E. IN ANY EDUCATIONAL SETTING WITHIN AN EDUCATIONAL
22 INSTITUTION IN WHICH A DEAF OR DEAF-BLIND PERSON IS INVOLVED, THE
23 EDUCATIONAL INSTITUTION SHALL APPOINT A QUALIFIED INTERPRETER FOR
24 THE DEAF OR DEAF-BLIND PERSON.

25 Sec. 4. (1) Each deaf **OR DEAF-BLIND** person whose appearance in
26 an action or other proceeding entitles the deaf **OR DEAF-BLIND**
27 person to a ~~certified interpreter or qualified~~ interpreter shall

1 notify the appointing authority of the need of a ~~certified~~
2 ~~interpreter or~~ qualified interpreter before the appearance.

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

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

12 Sec. 5. (1) If a deaf **OR DEAF-BLIND** person is arrested and
13 taken into custody for any alleged violation of a criminal law of
14 this state, the arresting officer and the officer's supervisor
15 shall procure a ~~certified interpreter or~~ qualified interpreter in
16 order to properly interrogate the deaf **OR DEAF-BLIND** person and to
17 interpret the deaf **OR DEAF-BLIND** person's statements.

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

21 Sec. 6. (1) Before a ~~certified interpreter or~~ qualified
22 interpreter participates in any action or other proceeding because
23 of an appointment under this act, the ~~certified interpreter or~~
24 qualified interpreter shall make an oath or affirmation that the
25 ~~certified interpreter or~~ qualified interpreter will make a true
26 interpretation in an understandable manner to the deaf **OR DEAF-**
27 **BLIND** person for whom the ~~certified interpreter or~~ qualified

1 interpreter is appointed and that the ~~certified interpreter or~~
 2 qualified interpreter will interpret the statements of the deaf **OR**
 3 **DEAF-BLIND** person in the English language to the best of the
 4 interpreter's skill. The appointing authority shall provide recess
 5 periods as necessary for the ~~certified interpreter or~~ qualified
 6 interpreter when the ~~certified interpreter or~~ qualified interpreter
 7 so indicates.

8 (2) The information that the ~~certified interpreter, qualified~~
 9 interpreter, ~~or~~ intermediary interpreter, **OR DEAF INTERPRETER**
 10 gathers from the deaf **OR DEAF-BLIND** person pertaining to any action
 11 or other **PENDING** proceeding ~~then pending~~ shall at all times remain
 12 confidential and privileged, unless the deaf **OR DEAF-BLIND** person
 13 executes a written waiver allowing the information to be
 14 communicated to other persons and the deaf **OR DEAF-BLIND** person is
 15 present at the time the information is communicated.

16 Sec. 7. (1) A court appointed interpreter, qualified
 17 interpreter, ~~or~~ intermediary interpreter, **OR DEAF INTERPRETER** shall
 18 be paid a fee by the court ~~which~~ **THAT** it determines to be
 19 reasonable. A ~~certified interpreter, qualified interpreter, or~~
 20 intermediary interpreter, **OR DEAF INTERPRETER** appointed by an
 21 appointing authority other than a court shall be paid a fee by the
 22 appointing authority. ~~under a schedule of fees promulgated by the~~
 23 ~~division of deaf and deafened of the department of labor with the~~
 24 ~~advice of the Michigan registry of interpreter, for the deaf,~~
 25 ~~pursuant to Act No. 306 of the Public Acts of 1969, as amended,~~
 26 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws. In~~
 27 addition, a ~~certified interpreter, qualified interpreter, or~~

intermediary interpreter, **OR DEAF INTERPRETER** shall be paid for his or her actual expenses for travel, meals, and lodging.

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

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

Sec. 8. (1) The appointing authority shall channel requests for ~~certified interpreters, qualified interpreters, and~~ intermediary interpreters, **AND DEAF INTERPRETERS** through the division on ~~deafness of the department of labor~~ **DEAF AND HARD OF HEARING**.

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

SEC. 8A. THE DIVISION ON DEAF AND HARD OF HEARING OF THE MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH WITH THE ADVICE OF THE MICHIGAN REGISTRY OF INTERPRETERS OF THE DEAF AND THE MICHIGAN DEAF ASSOCIATION SHALL PROMULGATE RULES UNDER THE ADMINISTRATIVE

1 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, TO
2 ENFORCE AND ADMINISTER THIS ACT.

3 SEC. 8B. (1) A QUALIFIED INTERPRETER WHO VIOLATES THE
4 PROVISIONS OF THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
5 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN
6 \$10,000.00 AND NOT LESS THAN \$1,000.00, OR BOTH.

7 (2) AN APPOINTING AUTHORITY WHO VIOLATES THE PROVISIONS OF
8 THIS ACT IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT
9 MORE THAN \$10,000.00 AND NOT LESS THAN \$1,000.00.