

HOUSE BILL No. 6087

May 18, 2006, Introduced by Reps. Gleason, McDowell, Bieda, Condino, Accavitti, Gillard, Spade, Polidori, Miller, Bennett and Alma Smith and referred to the Committee on Government Operations.

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:

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TITLE

2

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; ~~—~~ **TO PRESCRIBE THE POWERS
AND DUTIES OF CERTAIN STATE DEPARTMENTS AND AGENCIES; TO PRESCRIBE**

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1 **PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ACT;** and to
2 provide for the promulgation of rules.

3 Sec. 2. As used in this act:

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

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

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

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

24 **(B) —(e)—** "Deaf person" means a person whose hearing is
25 totally impaired or whose hearing, with or without amplification,
26 is so seriously impaired that the primary means of receiving spoken
27 language is through other sensory input; including, but not limited

1 to, lip reading, sign language, finger spelling, or reading.

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

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

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

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

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

1 variants of sign language by acting as an intermediary between a
 2 ~~hearing-impaired~~ **DEAF OR DEAF-BLIND** person and a ~~certified~~
 3 ~~interpreter or~~ qualified interpreter.

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

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

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

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

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

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

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

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

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

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

27 (6) ~~(5)~~ If a ~~certified interpreter or~~ qualified

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

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

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

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

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

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

26 Sec. 4. (1) Each deaf **OR DEAF-BLIND** person whose appearance in
27 an action or other proceeding entitles the deaf **OR DEAF-BLIND**

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

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

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

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

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

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

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

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

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

1 ~~being sections 24.201 to 24.315 of the Michigan Compiled Laws.~~ In
 2 addition, a ~~certified interpreter,~~ qualified interpreter, ~~or~~
 3 intermediary interpreter, **OR DEAF INTERPRETER** shall be paid for his
 4 or her actual expenses for travel, meals, and lodging.

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

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

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

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

26 **SEC. 8A. THE DIVISION ON DEAF AND HARD OF HEARING OF THE**
 27 **MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH WITH THE ADVICE OF**

1 THE MICHIGAN REGISTRY OF INTERPRETERS OF THE DEAF AND THE MICHIGAN
2 DEAF ASSOCIATION SHALL PROMULGATE RULES UNDER THE ADMINISTRATIVE
3 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, TO
4 ENFORCE AND ADMINISTER THIS ACT.

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

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