DEAF PERSONS' INTERPRETERS ACT

Act 204 of 1982

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; to provide compensation for interpreters; 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.

History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 23, Imd. Eff. June 28, 2007

The People of the State of Michigan enact:

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393.501 Short title.

Sec. 1.

This act shall be known and may be cited as the "deaf persons' interpreters act".

History: 1982, Act 204, Imd. Eff. July 1, 1982
Compiler's Notes: For transfer of powers and duties of the commission on disability concerns established in Executive Order 1995-11 from the department of labor to the family independence agency, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.For transfer of powers and duties of division on deaf, deafblind, and hard of hearing within department of licensing and regulatory affairs, see E.R.O. No. 2017-4, compiled at MCL 445.2036.

393.502 Definitions.

Sec. 2.

As used in this act:

(a) "Appointing authority" means a court or a department, board, commission, agency, or licensing authority of this state or a political subdivision of this state or an entity that is required to provide a qualified interpreter in circumstances described under section 3a.

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

(c) "Deaf-blind person" means a person who has a combination of hearing loss and vision loss, such that the combination necessitates specialized interpretation of spoken and written information in a manner appropriate to that person's dual sensory loss.

(d) "Division" means the division on deaf and hard of hearing of the department of labor and economic growth.

(e) "Intermediary interpreter" or "deaf interpreter" means any person, including any deaf or deaf-blind person, who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language by acting as an intermediary between a deaf or deaf-blind person and a qualified interpreter.

(f) "Qualified interpreter" means a person who is certified through the national registry of interpreters for the deaf or certified through the state by the division.

(g) "Qualified oral interpreter" means a qualified interpreter who is able to convey information through facial and lip movement.

(h) "Qualified sign language interpreter" means a qualified interpreter who uses sign language to convey information.

History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 24, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.503 Right of deaf or deaf-blind person to qualified interpreter in proceeding before court, grand jury, or appointing authority; appointment of qualified interpreter; waiver; preliminary determination; intermediary or deaf interpreter.

Sec. 3.

(1) In any action before a court or a grand jury where a deaf or deaf-blind person is a participant in the action, either as a plaintiff, defendant, or witness, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf or deaf-blind person, to interpret the deaf or deaf-blind person's testimony or statements, and to assist in preparation of the action with the deaf or deaf-blind person's counsel.

(2) In a proceeding before an appointing authority, other than a court, the appointing authority shall appoint a qualified interpreter to interpret the proceedings to the deaf or deaf-blind person and to interpret the deaf or deaf-blind person's testimony or statements in any proceeding before the appointing authority.

(3) The right of a deaf or deaf-blind person to a qualified interpreter shall not be waived except by a request for waiver in writing by the deaf or deaf-blind person. A written waiver of a plaintiff or defendant is subject to the approval of the deaf or deaf-blind person's counsel and the approval of the appointing authority.

(4) A qualified interpreter shall not be appointed unless the appointing authority and the deaf or deaf-blind person make a preliminary determination that the qualified interpreter is able to readily communicate with the deaf or deaf-blind person and to interpret the proceedings in which the deaf or deaf-blind person is involved.

(5) If a qualified interpreter states that the interpreter is unable to render a satisfactory interpretation and that an intermediary interpreter or deaf interpreter will improve the quality of the interpretation, the appointing authority shall appoint an intermediary interpreter or deaf interpreter to assist the qualified interpreter.

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History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 24, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.503a Interpreter required as accommodation; qualified interpreter required.

Sec. 3a.

If an interpreter is required as an accommodation for a deaf or deaf-blind person under state or federal law, the interpreter shall be a qualified interpreter.

History: Add. 2007, Act 24, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.504 Notification of need for or right to interpreter; proof of deafness.

Sec. 4.

(1) Each deaf or deaf-blind person whose appearance in an action or other proceeding entitles the deaf or deaf-blind person to a qualified interpreter shall provide reasonable notice to the appointing authority of the need of a qualified interpreter before the appearance. Each deaf or deaf-blind person who is entitled to a qualified interpreter as an accommodation under state or federal law shall provide reasonable notice to the appointing authority of the need for a qualified interpreter.

(2) An appointing authority, when it knows a deaf or deaf-blind person is or will be coming before it, shall inform the deaf or deaf-blind person of the right to a qualified interpreter.

(3) An appointing authority may require a person requesting the appointment of a qualified interpreter to furnish reasonable proof of the person's deafness, if the appointing authority has reason to believe that the person is not deaf or deaf-blind.

History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.505 Arrest of deaf or deaf-blind person; procuring interpreter; inadmissibility of statements made without interpreter.

Sec. 5.

(1) If a deaf or deaf-blind person is arrested and taken into custody for any alleged violation of a criminal law of this state, the arresting officer and the officer's supervisor shall procure a qualified interpreter in order to properly interrogate the deaf or deaf-blind person and to interpret the deaf or deaf-blind person's statements.

(2) A statement taken from a deaf or deaf-blind person before a qualified interpreter is present is not admissible in court.

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History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.506 Oath or affirmation of interpreter; recess periods; information gathered by interpreter pertaining to pending proceeding confidential and privileged; waiver.

Sec. 6.

(1) Before a qualified interpreter participates in any action or other proceeding because of an appointment under this act, the qualified interpreter shall make an oath or affirmation that the qualified interpreter will make a true interpretation in an understandable manner to the deaf or deaf-blind person for whom the qualified interpreter is appointed and that the qualified interpreter will interpret the statements of the deaf or deaf-blind person in the English language to the best of the interpreter's skill. The appointing authority shall provide recess periods as necessary for the qualified interpreter when the qualified interpreter so indicates.

(2) The information that the qualified interpreter, intermediary interpreter, or deaf interpreter gathers from the deaf or deaf-blind person pertaining to any action or other pending proceeding shall at all times remain confidential and privileged, unless the deaf or deaf-blind person executes a written waiver allowing the information to be communicated to other persons and the deaf or deaf-blind person is present at the time the information is communicated.

History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.507 Fee and expenses of interpreter; payment; schedule of fees; duration of interpreter's availability.

Sec. 7.

(1) A court appointed interpreter, qualified interpreter, intermediary interpreter, or deaf interpreter shall be paid a fee by the court that it determines to be reasonable. A qualified interpreter, intermediary interpreter, or deaf interpreter appointed by an appointing authority other than a court shall be paid a fee by the appointing authority. In addition, a qualified interpreter, intermediary interpreter, or deaf interpreter shall be paid for his or her actual expenses for travel, meals, and lodging.

(2) If the qualified interpreter, 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 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.

History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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393.508 Channeling requests for interpreters through division; listing of interpreters.

Sec. 8.

(1) The appointing authority shall channel requests for qualified interpreters, intermediary interpreters, and deaf interpreters through the division.

(2) The division shall compile and update annually a listing of qualified interpreters, intermediary interpreters, and deaf interpreters and shall make this listing available to an appointing authority that may need the services of a qualified interpreter, intermediary interpreter, or deaf interpreter as required by this act.

History: 1982, Act 204, Imd. Eff. July 1, 1982 ;-- Am. 1988, Act 435, Eff. Mar. 30, 1989 ;-- Am. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.508a Rules.

Sec. 8a.

(1) The division, with the advice of the department of education, shall promulgate rules, under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that govern procedures for application, testing, revocation, suspension or limitation of certification, continuing education, renewals, and grievances, minimum credential requirements and levels, and minimum standards of practice.

(2) The rules promulgated under this section shall be coordinated with the department of education and the administrative rule for special education, R 340.1793a of the Michigan administrative code.

History: Add. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

***** 393.508b SUBSECTION (1) TAKES EFFECT OCTOBER 1, 2007: See compiler's note following this section; SUBSECTION (3) BECAME EFFECTIVE ON JULY 5, 2014 PURSUANT TO THE EFFECTIVE DATE OF R 393.5001 TO R 393.5095.

393.508b Qualified interpreter; misrepresentation as misdemeanor; violation of MCL 393.503a; fine; effective date of subsection (3).

Sec. 8b.

(1) A person who knows that he or she does not meet the definition of qualified interpreter under this act and misrepresents himself or herself as a qualified interpreter is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $500.00 or more than $1,000.00, or both.

(2) An individual who applies to become certified as a qualified interpreter through the state by the division or a qualified interpreter certified through the state by the division who violates this act is subject to 1 or more of the following actions by the division:

(a) Rejection of his or her application for certification as a qualified interpreter under this act.

(b) Revocation, suspension, or limitation of his or her certification as a qualified interpreter under this act.

(3) An appointing authority that willfully violates section 3a is subject to a civil fine of not less than $1,000.00 and not more than $10,000.00.

(4) Subsection (3) becomes effective on the effective date of the rules promulgated under this pursuant to section 8a.

History: Add. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: Enacting section 1 of Act 24 of 2007 provides:"Enacting section 1. Subsection (1) of section 8b of the deaf persons' interpreters act, 1982 PA 204, MCL 393.508b, takes effect October 1, 2007 and applies to crimes committed on or after that date."For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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393.508c State certification; issuance; application; fee.

Sec. 8c.

A person who is certified through and is in good standing with the national registry of interpreters for the deaf shall be issued a state certification upon filing a complete application and submitting the $30.00 application fee.

History: Add. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.508d Possession of Michigan quality assurance certification; expiration; renewal.

Sec. 8d.

Any person possessing a Michigan quality assurance certification at the level of I, II, or III, on the effective date of the amendatory act that added this section, shall be considered a qualified interpreter for purposes of this act until that certification status expires. He or she may renew the certificate annually until it expires and retesting is required.

History: Add. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.508e Fees.

Sec. 8e.

(1) A person who is a qualified interpreter, upon presentation of national certification credentials and without examination, shall pay a $30.00 application fee, that shall also fulfill the initial certification requirement under

subsection (2).

(2) The division shall collect a $30.00 annual renewal fee for issuing state certification credentials for all qualified interpreters under this act.

(3) The division shall collect a $125.00 examination fee from each resident of this state applying to take an examination for certification under this act. The division shall collect a $175.00 examination fee from each person who does not reside in this state who applies to take an examination for certification under this act.

History: Add. 2007, Act 23, Imd. Eff. June 28, 2007
Compiler's Notes: For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

393.508f Deposit of money received under MCL 393.508c and 393.508e.

Sec. 8f.

(1) Money received under sections 8c and 8e shall be deposited into the division on deafness fund established in section 8 of the division of deafness act, 1937 PA 72, MCL 408.208, and expended as described in that section.

(2) Money received under sections 8c and 8e that is deposited into the division on deafness fund as provided in subsection (1) shall be expended to cover costs associated with the division on deaf and hard of hearing within the commission on disability concerns.

History: Add. 2010, Act 74, Imd. Eff. May 19, 2010
Compiler's Notes: In subsection (1), the citation "division of deafness act, 1937 PA 72, MCL 408.208" evidently should read "division on deafness act, 1937 PA 72, MCL 408.208".For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

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393.509 Conditional effective date.

Sec. 9.

This act shall not take effect unless Senate Bill No. 616 of the 81st Legislature is enacted into law.

History: 1982, Act 204, Imd. Eff. July 1, 1982
Compiler's Notes: Senate Bill No. 616, referred to in this section, was approved by the Governor on July 1, 1982, and became P.A. 1982, No. 203, Imd. Eff. July 1, 1982.For transfer of powers and duties of division on deaf and hard of hearing and advisory council on deaf and hard of hearing from department of licensing and regulatory affairs to department of civil rights, see E.R.O. No. 2011-4, compiled at MCL 445.2030.For transfer of powers and duties of division on deaf, deafblind, and hard of hearing within department of licensing and regulatory affairs, see E.R.O. No. 2017-4, compiled at MCL 445.2036.