



# House of Representatives

General Assembly

**File No. 347**

February Session, 2008

Substitute House Bill No. 5797

*House of Representatives, April 1, 2008*

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE AVAILABILITY OF QUALIFIED INTERPRETER SERVICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2008*) (a) For purposes of this  
2 section, (1) "qualified interpreter" means a person who meets the  
3 requirements for the provision of interpreting services pursuant to  
4 section 46a-33a of the 2008 supplement to the general statutes; (2)  
5 "commission" means the Commission on the Deaf and Hearing  
6 Impaired; (3) "human services agency" means any state agency,  
7 authority, board, commission, committee, council, department,  
8 institution or office providing or having cognizance of any human  
9 service; (4) "law enforcement agency" has the same meaning as  
10 provided in section 54-240 of the general statutes; and (5) "person who  
11 is deaf or hearing impaired" and "employee who is deaf or hearing  
12 impaired" means a person with significant hearing loss whose primary  
13 mode of communication is American Sign Language or a variant of  
14 American Sign Language.

15 (b) (1) In any criminal or civil action involving a person who is deaf  
16 or hearing impaired, whether as a party or as a witness, such person  
17 shall be provided the services of a qualified interpreter throughout  
18 such proceeding. The court, acting on behalf of such person, may  
19 request that the commission assign qualified interpreters to interpret  
20 for such person throughout the course of the proceeding.

21 (2) In any criminal investigation conducted by a law enforcement  
22 agency involving a person who is deaf or hearing impaired, whether as  
23 a victim, witness or suspect, the law enforcement agency shall make  
24 reasonable efforts to provide such person with the services of a  
25 qualified interpreter throughout the course of such investigation. No  
26 custodial interrogation of any deaf or hearing impaired suspect shall  
27 be conducted without a qualified interpreter, unless such suspect, after  
28 being apprised of his or her constitutional rights, knowingly and  
29 voluntarily waives his or her right to an interpreter. The law  
30 enforcement agency may (A) request that the commission assign  
31 qualified interpreters to interpret for such person, or (B) provide  
32 qualified interpreters who are not employees of the law enforcement  
33 agency, to interpret for such person throughout the course of the  
34 investigation.

35 (3) In any criminal investigation conducted by a law enforcement  
36 agency involving a child under the age of sixteen whose parent is a  
37 person who is deaf or hearing impaired, whether the child is a victim,  
38 witness or suspect, the law enforcement agency shall make reasonable  
39 efforts to provide such parent with the services of a qualified  
40 interpreter throughout the course of such investigation. The law  
41 enforcement agency may (A) request that the commission assign  
42 qualified interpreters to interpret for such parent, or (B) provide  
43 qualified interpreters who are not employees of such law enforcement  
44 agency, to interpret for such parent throughout the course of the  
45 investigation.

46 (c) In any proceeding before an administrative or executive board,  
47 commission, agency, bureau, committee or other body of the state or

48 any of its political subdivisions involving a person who is deaf or  
49 hearing impaired, such body may (1) request that the commission  
50 assign qualified interpreters to interpret for such person, or (2) provide  
51 qualified interpreters who are not employees of such body, to interpret  
52 for such person throughout the course of the proceeding.

53 (d) In any proceeding before an administrative or executive board,  
54 committee or any similar body provided by an employer or by a labor  
55 organization to hear employee grievances involving an employee who  
56 is deaf or hearing impaired, such employer or labor organization shall  
57 (1) request that the commission assign qualified interpreters to  
58 interpret for such employee, or (2) provide qualified interpreters to  
59 interpret for such employee who are not employees of the employer or  
60 labor organization or a person on such administrative or executive  
61 board, committee or any similar body throughout the course of the  
62 proceeding. A qualified interpreter provided pursuant to subdivision  
63 (2) of this subsection may be an employee of the employer or labor  
64 organization if the employee who is deaf or hearing impaired, after  
65 being informed of his or her right to a nonemployee qualified  
66 interpreter, agrees to the services of a qualified interpreter who is an  
67 employee of the employer or labor organization, provided such  
68 interpreter shall not be any person on such administrative or executive  
69 board, committee or any similar body. For purposes of this subsection,  
70 proceeding includes any initial discussions between an employee who  
71 is deaf or hearing impaired and an employer or a labor organization  
72 representative, involving a matter that may potentially result in the  
73 filing of a grievance.

74 (e) Any school, institution of higher education, other educational  
75 facility or human services agency may request that the commission  
76 provide qualified interpreter services. Upon receiving such request, the  
77 commission shall use its best efforts to arrange for qualified interpreter  
78 services to accommodate the request.

79 (f) The commission shall process all requests for qualified  
80 interpreter services made to the commission pursuant to subsections

81 (b) to (e), inclusive, of this section. Services provided by a qualified  
82 interpreter shall be on a fee-for-service basis and need not be provided  
83 by employees of the commission.

84 (g) The commission shall adopt regulations, in accordance with the  
85 provisions of chapter 54 of the general statutes, to implement the  
86 provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2008	New section

**Statement of Legislative Commissioners:**

Subdivision (2) of subsection (d) was rewritten for purposes of clarity. In subdivisions (2) and (3) of subsection (b) and in subsection (c), "who are not" was substituted for "except" for clarity.

**HS**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Commission on the Deaf & Hearing Impaired	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect	FY 09 \$	FY 10 \$
Municipal Police Departments	None	None	None

**Explanation**

The bill establishes specific circumstances in which someone who is deaf or hearing impaired has the right to interpreting services. The bill is not anticipated to result in a noticeable change in the volume of requests for interpreting services<sup>1</sup>. Therefore, the bill will not result in any increased cost to the Commission on the Deaf and Hearing Impaired (CDHI).

To the extent that the bill requires a municipal police department to alter current practice, it is anticipated that they will be able to accommodate this within their existing resources.

**The Out Years**

The impact identified above is continued into the out years.

<sup>1</sup> Interpreting services are reimbursed at a fee-for-service rate that CDHI retains in a non-lapsing account to support the program.

**OLR Bill Analysis**

**sHB 5797**

***AN ACT CONCERNING THE AVAILABILITY OF QUALIFIED INTERPRETER SERVICES.***

**SUMMARY:**

This bill establishes the specific circumstances in which someone who is deaf or hearing impaired has the right to interpreter services and when they must be provided. It requires (1) these services in any criminal or civil action involving someone who is deaf or hearing impaired and (2) law enforcement agencies to make reasonable efforts to procure them when conducting certain investigations. Under the bill a person is deaf or hearing impaired if he or she has significant hearing loss and primarily communicates using American Sign Language or a variant.

It permits state agencies, boards, and other entities to request interpreters for any proceedings involving deaf or hearing impaired people. But it requires employers or labor organizations to request them when hearing grievances involving employees who are deaf or hearing impaired.

The bill also permits educational institutions to request interpreters from the Commission on Deaf and Hearing Impaired (CDHI) and requires the commission to use its best efforts to arrange for them

The bill requires CDHI to process all requests made to it for interpreters. These services are provided on a fee-for-service basis and need not be provided by CDHI employees.

The law already requires CDHI, at the request of any person or entity, to provide interpreting services to the extent interpreters are available. The individual or entity must reimburse the commission for

these services.

EFFECTIVE DATE: October 1, 2008

## **RIGHT TO INTERPRETER SERVICES IN LEGAL PROCEEDINGS**

The bill requires the services of a qualified interpreter in any criminal or civil action involving someone who is deaf or hearing impaired, regardless of whether he or she is a party or witness. The interpreter must be provided throughout the proceeding. It authorizes the court, acting on the person's behalf, to ask CDHI to assign an interpreter.

### ***Criminal Investigations***

The bill requires a law enforcement agency, when conducting a criminal investigation involving someone who is deaf or hearing impaired, or a child who is under 16 and whose parent is deaf or hearing impaired, to make reasonable efforts to provide qualified interpreters throughout of its investigation. This applies when the person or child is a victim, witness, or suspect.

The bill prohibits any custodial interrogation of a deaf or hearing impaired suspect without an interpreter unless, after being apprised of his or her constitutional rights, the suspect knowingly and voluntarily waives the right to an interpreter.

The bill allows the agency to request that either (1) CDHI assign an interpreter or (2) qualified interpreters who are not employed by the law enforcement agency be assigned. To be a qualified interpreter, someone must meet certain credentialing requirements specified in law, including being registered with CDHI.

## **OTHER PROCEEDINGS**

### ***Administrative Proceedings***

The bill allows state administrative or executive boards, commissions, agencies, bureaus, committees, or other bodies or any of its political subdivisions in proceedings involving someone who is deaf or hearing impaired to request interpreters for these proceedings,

procuring them in the same manner as for the criminal proceedings.

But it requires administrative or executive bodies that employers or labor organizations provide to hear employee grievances to request the interpreters when these grievances involve an employee who is deaf or hearing impaired.

When the interpreter is not assigned by CDHI, the interpreter may not be someone who sits on the body, but he or she can work for the employer or labor organization if, after being informed of his right to a nonemployee interpreter, the deaf or hearing impaired employee agrees to it.

The bill specifies that these types of proceedings include any initial discussion between an employee and an employer or a labor organization representative involving a matter that may potentially result in a grievance being filed.

### ***Educational and Human Service Agency Requests***

The bill permits any school, including higher education institutions, other educational facilities, or state human service agencies to ask CDHI to provide qualified interpreters. CDHI must use its best efforts to accommodate these requests.

It defines “human services agency” as any state agency, authority, board, commission, committee, council, department, institution, or office providing or supervising any human service.

## **BACKGROUND**

### ***Qualified Interpreters***

The law prohibits anyone from providing interpreter services for compensation without first being accredited and registered with CDHI. It more specifically prohibits anyone from interpreting in a legal setting (civil or criminal action involving court, investigations conducted by law enforcement officers, employment-related hearings) without first registering with CDHI (CGS § 46a-33).

**PA 98-252**

In 1998, the legislature replaced the requirement that CDHI provide a qualified interpreter whenever a deaf or hearing impaired person was involved in a civil or criminal case, criminal investigation by law enforcement agencies, or any proceeding before a state or local administrative board, as well as requests from educational facilities and human services agencies, regardless of their availability, with the current, general requirement.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2008)