WEST VIRGINIA CODE CHAPTER 5 ARTICLE 14A

WV Legislature

§5-14A-1. Short title.

This article shall be known and may be cited as the "West Virginia Interpreter for the Deaf Act."

WV Legislature

§5-14A-2. Definitions.

As used in this article:

(a) "Deaf person" means one whose sense of hearing is nonfunctional for the ordinary purposes of life;

(b) "Qualified interpreter" means an interpreter certified by the national association of the deaf (NAD) or registry of interpreters for the deaf (RID), or, in the event an interpreter so certified is not available, an interpreter whose qualifications are otherwise determined;

(c) "Oral interpreter" means a person who interprets language through facial and lip movements; and

(d) "Appointing authority" means any court, department, board, commission, agency, licensing authority, political subdivision or municipality of the state required to provide an interpreter.

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§5-14A-3. Appointment of interpreter in court action or grand jury proceeding.

(a) In any case before any court or the grand jury, wherein any deaf person is a complainant, defendant or witness, a qualified interpreter to interpret the proceedings to the deaf person and interpret his or her testimony or statements and to assist in preparation with counsel shall be appointed as provided under the provisions of section seven, article five, chapter fifty-seven of this code. The court shall work closely with West Virginia commission for the deaf and hard-of-hearing in finding the right interpreter for any duty in court.

(b) Efforts to obtain the services of a qualified interpreter certified with a legal skills certificate, or a comprehensive oral interpreting certificate will be made prior to accepting services of an interpreter with lesser certification. No qualified interpreter shall be appointed unless the appointing authority and the deaf person make a preliminary determination that the interpreter is able to communicate readily with the deaf person and is able to interpret accurately the statement of the deaf person and interpret the proceedings in which a deaf person may be involved.

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§5-14A-4. Arrests -- Appointment of an interpreter.

(a) In the event a person who is deaf is arrested and taken into custody for any alleged violation of a criminal law of this state, the arresting officer or his or her superiors shall procure a qualified interpreter in order to interrogate properly such deaf person and to interpret such person's statements. No statement taken from the deaf person before an interpreter is present may be admissible in court.

(b) An oral interpreter shall be provided upon the request of a deaf person entitled to an interpreter under this article, but who does not communicate in sign language. The right of a deaf person to an interpreter may not be waived except by a deaf person who does not use sign language and who initiates the request for waiver in writing. The waiver is subject to approval of legal counsel for the deaf person, if any, and is subject to approval of the appointing authority.

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§5-14A-5. Administrative proceedings -- Appointment of interpreter.

(a) In any proceeding before any department, board, commission, agency or licensing authority of the state, in any political subdivision or municipality, wherein any deaf person is a defendant, the department, board, commission, agency, licensing authority, political subdivision or municipality shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret his or her testimony or statements if said deaf person requests an interpreter.

(b) In a proceeding before any department, board, commission, agency or licensing authority of the state, in any political subdivision or municipality, wherein any deaf person is an applicant, complainant or principal witness, the department, board, commission, agency, licensing authority, political subdivision or municipality may appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret his or her testimony or statements if said deaf person requests an interpreter.

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§5-14A-6. Notice of necessity of interpreter -- Proof of deafness.

Every deaf person whose appearance in any proceeding entitles him or her to an interpreter shall notify the appointing authority of his or her desire for an interpreter at least forty-eight hours prior to any appearance and may request at the time the services of an interpreter: Provided, That if a deaf person reasonably expects the need for an interpreter for a period greater than a single day, he or she shall notify the appointing authority and the notification shall be sufficient for the duration of his or her participation in the proceedings.

An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of his or her deafness when the appointing authority has reason to believe that the person is not deaf.

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§5-14A-7. Processing request for interpreter -- Duties and responsibilities.

It shall be the responsibility of the appointing authority to channel requests for qualified interpreters through the West Virginia commission for the deaf and hard-of-hearing except as provided under the provisions of section seven, article five, chapter fifty-seven of this code. This listing shall be made available to authorities in possible need of interpreter service as provided in this article.

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§5-14A-8. Confirmation of accuracy of interpretation.

Before a qualified interpreter may participate in any proceedings under the provisions of this article, the interpreter shall make an oath or affirmation that he or she will make a true interpretation in an understandable manner to the deaf person for whom he or she is appointed and that he or she will interpret the statements of the deaf person desiring that statements be made, in the English language to the best of his or her skill and judgment. The appointing authority shall provide recess periods as necessary for the interpreter when the interpreter so indicates. Any and all information that the interpreter gathers from the deaf person pertaining to any proceeding then pending shall at all times remain confidential and privileged, or on a equal basis with the attorney-client privilege, unless the deaf person desired that the information be communicated to other persons.

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§5-14A-9. Interpreter fee; authority for legislative rules.

Notwithstanding the provisions of section seven, article five, chapter fifty-seven with respect to fees, an interpreter appointed under the provisions of this article shall be entitled to a reasonable fee to be established by the West Virginia commission for the deaf and hard-of-hearing under a fee schedule promulgated by legislative rule pursuant to the provisions of chapter twenty-nine-a of this code. When the interpreter is appointed by a court, the fee shall be paid out of the local court fund and when the interpreter is otherwise appointed, the fee shall be paid out of funds available to the appointing authority.

WV Legislature