

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1881

(By MR. HARMAN, 33rd Dist., and MRS. GOLDSMITH)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact section seven, article five, chapter fifty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of interpreters for hearing impaired persons generally; establishing the right of a hearing impaired person to have a qualified interpreter assist him in court proceedings; extending such right to administrative hearings and other proceedings; establishing a program to facilitate the use of interpreters in court; providing for a registry of qualified interpreters upon certification by the director of the administrative office of the supreme court of appeals; requiring circuit courts to maintain on file a list of certified interpreters; setting forth the procedure for utilizing the services of a certified interpreter; providing for the compensation of interpreters; authorizing individuals to seek assistance through circuit clerks or the director of the administrative office of the supreme court of appeals; and providing for interpreters in case of foreign language or other reasons.

Be it enacted by the Legislature of West Virginia:

That section seven, article five, chapter fifty-seven of the code

of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. MISCELLANEOUS PROVISIONS.

§57-5-7. Interpreters required.

1 (a) In any court proceeding wherein a party or witness
2 cannot readily understand or verbally communicate the Eng-
3 lish language because he is deaf or a deaf mute or be-
4 cause of any other hearing impairment, such person shall
5 have the right to have a qualified interpreter to assist him
6 at every stage of the proceeding. Such right shall also per-
7 tain in any proceeding before administrative boards, com-
8 missions or agencies of this state or any political subdivision
9 or municipality thereof, and in coroners' inquests and grand
10 jury proceedings.

11 (b) The director of the administrative office of the supreme
12 court of appeals shall establish a program to facilitate the
13 use of interpreters in courts of this state and in extra-judicial
14 criminal proceedings as provided for in this section.

15 (1) The director shall prescribe, determine and certify
16 the qualifications of persons who may serve as certified inter-
17 preters in courts of this state in proceedings involving the
18 hearing impaired. Persons certified by the director shall be
19 interpreters certified by the national registry of interpreters
20 for the deaf, or the West Virginia registry of interpreters for
21 the deaf or approved by the chief of services for the deaf and
22 hearing impaired of West Virginia of the West Virginia di-
23 vision of vocational rehabilitation, or shall be such other
24 persons deemed by the director to be qualified by education,
25 training and experience. The director shall maintain a cur-
26 rent master list of all interpreters certified by the director
27 and shall report annually on the frequency of requests for, and
28 the use and effectiveness of, interpreters.

29 (2) Each circuit court shall maintain on file in the office
30 of the clerk of the court a list of all persons who have been
31 certified as oral or manual interpreters for the hearing im-
32 paired by the director of the administrative office of the

33 supreme court of appeals in accordance with the certification
34 program established pursuant to this section.

35 (3) In any criminal or juvenile proceeding, or other pro-
36 ceeding described in section five, article eleven, chapter fifty-
37 one of this code, the judge of the circuit court in which such
38 proceeding is pending, or, if such proceeding is in a magistrate
39 court, then the judge of the circuit court to which such pro-
40 ceeding may be appealed or presented for judicial review, shall,
41 with the assistance of the director of the administrative office
42 of the supreme court of appeals, utilize the services of the
43 most available certified interpreter, or when no certified
44 interpreter is reasonably available, as determined by the judge,
45 the services of an otherwise competent interpreter, if the
46 judge determines on his own motion or on the motion of
47 a party that such party or a witness who may present testi-
48 mony in the proceeding suffers from a hearing impairment
49 so as to inhibit such party's comprehension of the proceed-
50 ings or communication with counsel or the presiding judicial
51 officer, or so as to inhibit such witness' comprehension of
52 questions and the presentation of such testimony. The utiliza-
53 tion of an interpreter shall be appropriate at any stage of
54 the proceeding, judicial or extrajudicial, at which a person
55 would be entitled to representation by an attorney and a
56 waiver of the right to counsel shall not constitute a waiver
57 of the right to an interpreter as provided for by this section.

58 (c) Whenever a qualified interpreter is appointed pursuant
59 to the provisions of subsection (b) of this section, the court
60 shall, at the conclusion of the proceedings or interrogation,
61 by order, fix the compensation of such interpreter. The
62 compensation shall be not less than fifteen dollars per hour,
63 nor more than fifty dollars per day, plus reimbursement for
64 all reasonable and necessary expenses actually incurred in the
65 performance of such duties, but expenses shall not be incurred
66 in excess of the prevailing rate for state employees. In all
67 such cases, the compensation shall be paid by the state auditor
68 from the fund out of which appointed counsel are paid in
69 felony cases. In proceedings before administrative boards,
70 commissions and agencies, the compensation shall be fixed by

71 such board, commission or agency and paid, within the limit
72 of available funds, by such board, commission or agency.

73 (d) In any proceeding described in subdivision (3), sub-
74 section (b) of this section, if the circuit judge does not
75 appoint an interpreter, an individual requiring the services
76 of an interpreter may seek the assistance of the clerk of the
77 circuit court or the director of the administrative office of the
78 supreme court of appeals in obtaining the assistance of a
79 certified interpreter.

80 (e) Whenever an interpreter is necessary in any court
81 proceeding because a witness or party speaks only a foreign
82 language or for any other reason, an interpreter may be
83 sworn truly to interpret.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Rye

Chairman Senate Committee

Tony E. Whitlow

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Todd C. Wilks

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

Warren R. McLaw

President of the Senate

Walter M. See, Jr.

Speaker House of Delegates

The within is approved this the 30
day of March, 1982.

John D. Dyer

Governor

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