

Chapter 8B.

Interpreters for Deaf Persons.

§ 8B-1. Definitions; right to interpreter; determination of competence.

As used in this Chapter:

- (1) "Appointing authority" means the presiding judge or clerk of superior court in a judicial proceeding, or a hearing officer, examiner, commissioner, chairman, presiding officer or similar official in a legislative or administrative proceeding.
- (2) "Deaf person" means a person whose hearing impairment is so significant that the individual is impaired in processing linguistic information through hearing, with or without amplification.
- (3) "Qualified interpreter" means an interpreter licensed under Chapter 90D of the General Statutes. If the appointing authority finds that a licensed interpreter is not available, an unlicensed interpreter may be called and used as a qualified interpreter if the interpreter's actual qualifications have otherwise been determined to be adequate for the present need. In no event will an interpreter be considered qualified if the interpreter is unable to communicate effectively with and simultaneously and accurately interpret for the deaf person.

A deaf person who does not utilize sign language may request an aural/oral interpreter. Before this interpreter is appointed, the appointing authority shall satisfy itself that the aural/oral interpreter is competent to interpret the proceedings to the deaf person and to present the testimony, statements, and any other information tendered by the deaf person. (1981, c. 937, s. 1; 1997-443, s. 11A.118(a); 2002-182, s. 2; 2003-56, s. 3.)

§ 8B-2. Appointment of interpreters in certain judicial, legislative, and administrative proceedings; removal.

(a) When a deaf person is a party to or a witness in any civil or criminal proceeding in any superior or district court of the State, including juvenile proceedings, special proceedings, and proceedings before the magistrate, the court shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony, if any.

(b) When a deaf person is a witness before any legislative committee or subcommittee or legislative research or study committee or subcommittee or commission authorized by the General Assembly, the appointing authority conducting the proceeding shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony.

(c) When a deaf person is a party to or a witness in an administrative proceeding before any department, board, commission, agency or licensing authority of the State, or of any county or city of the State, the appointing authority conducting the proceeding shall appoint a qualified interpreter to interpret the proceedings to the deaf person and to interpret the deaf person's testimony, if any.

(d) If a deaf person is arrested for an alleged violation of criminal law of the State, including a local ordinance, the arresting officer shall immediately procure a qualified interpreter from the appropriate court for any interrogation, warning, notification of rights, arraignment, bail hearing or other preliminary proceeding, but no arrestee otherwise eligible for release on bail under Article 26 of Chapter 15A of the General Statutes shall be held in custody pending the arrival of an interpreter. No answer, statement or admission taken from the deaf person without a qualified interpreter present and functioning is admissible in court for any purpose.

(e) Whenever a juvenile whose parent or parents are deaf is brought before a court for any reason whatsoever, the court shall appoint a qualified interpreter to interpret the proceedings and testimony for the deaf parent or parents, and to interpret any statements or testimony the deaf parent or parents may be called upon to give to the court.

(f) A qualified interpreter shall not be appointed until the appointing authority makes a preliminary determination that the interpreter is able to communicate effectively with and to interpret accurately for the deaf person. If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether the interpreter is "qualified" within the meaning set forth under this statute.

(g) The appointing authority may, on its own motion or on the request of the deaf person, remove an interpreter for inability to communicate or because his services have been waived. (1981, c. 937, s. 1.)

§ 8B-3. Waiver of appointed interpreter.

(a) A deaf person entitled to the services of an interpreter under this Chapter may waive these services. The waiver must be approved in writing by the person's attorney. If the person does not have an attorney, approval must be made in writing by the appointing authority.

(b) A deaf person who has waived an interpreter under this section may provide his own interpreter at his own expense, without regard to whether such interpreter is qualified under this Chapter. (1981, c. 937, s. 1.)

§ 8B-4. Notice of need for interpreter; proof of deafness.

A deaf person entitled to an interpreter under this Chapter shall, if practicable, notify the appropriate appointing authority of his need prior to his appearance. A failure to notify or to request an interpreter is not a waiver of the right to an interpreter. Before appointing an interpreter, an appointing authority may require satisfactory proof of the requesting person's deafness if he has reason to believe the person is not hearing impaired. (1981, c. 937, s. 1.)

§ 8B-5. Privileged communications.

If a communication made by the deaf person through an interpreter is privileged, the privilege extends also to the interpreter. (1981, c. 937, s. 1.)

§ 8B-6. List of interpreters; coordination of interpreter services.

The Department of Health and Human Services shall prepare and maintain an up-to-date list of qualified and available interpreters. A copy of the list shall be provided to each clerk of superior court and to the North Carolina Interpreter and Transliterator Licensing Board created in Chapter 90D of the General Statutes. When requested by an appointing authority to provide an interpreter the Division of Services for the Deaf and the Hard of Hearing shall assist in arranging for an interpreter at the time and place needed through its program of community services for the hearing impaired. (1981, c. 937, s. 1; 1989, c. 533, s. 4; 1997-443, s. 11A.118(a); 2002-182, s. 3; 2003-56, s. 3.)

§ 8B-7. Oath.

Before acting, an interpreter shall take an oath or affirmation that he will make a true interpretation in an understandable manner of the proceedings to the person for whom he is

appointed and that he will convey the statements of the person in the English language to the best of his skill and judgment. (1981, c. 937, s. 1.)

§ 8B-8. Compensation.

(a) An interpreter appointed under this Chapter is entitled to a reasonable fee for services, including waiting time, time reserved by the courts for the assignment, and reimbursement for necessary travel and subsistence expenses. The fee shall be fixed by the appointing authority who shall consider any fee schedule for interpreters established by the Department of Health and Human Services. Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for State employees generally.

(b) The fees and expenses of interpreters who serve before any superior or district court criminal and juvenile proceeding are payable from funds appropriated to the Administrative Office of the Courts.

(c) The fees and expenses of interpreters who serve in civil cases and special proceedings are also payable from funds appropriated to the Administrative Office of the Courts.

(d) Fees and expenses of interpreters who serve before a legislative body described in this Article are payable from funds appropriated for operating expenses of the General Assembly.

(e) Fees and expenses of interpreters who serve before any State administrative agency are payable by that agency.

(f) Fees and expenses of interpreters who serve before city or county administrative proceedings are payable by the respective city or county.

(g) Repealed by Session Laws 1995, c. 277, s. 1. (1981, c. 937, s. 1; 1989, c. 533, s. 5; 1995, c. 277, s. 1; 1997-443, s. 11A.118(a).)

§ 8B-9. Responsibility for payment of funds to implement Chapter.

Responsibility for payment of funds to implement this Chapter rests with the particular entity specified in G.S. 8B-8 whose procedure required the service. (1981, c. 937, s. 2.)

§ 8B-10. North Carolina Training and Licensing Preparation Program fees.

The Division of Services for the Deaf and the Hard of Hearing of the Department of Health and Human Services may charge a fee of no more than fifty dollars (\$50.00) to individuals who participate in interpreter training or workshops offered by the North Carolina Training and Licensing Preparation Program. The Division may charge a fee of no more than one hundred dollars (\$100.00) for a diagnostic evaluation offered under the Program. This fee is for voluntary diagnostic services only. These fees are to cover the cost of administering the Program and are payable when a participant takes part in a planned activity. (1991, c. 465, s. 1; 1997-443, s. 11A.118(a); 2002-182, s. 4; 2003-56, s. 3.)