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LANSING

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Analysis of House Bill 4208 (As Passed House)

Topic: Deaf Person Interpreters
Sponsor: Representative Spade
Co-Sponsors: Representatives Miller, Clemente, LeBlanc, Coulouris, and Leland
Committee: House Regulatory Reform
Senate Judiciary

Date Introduced: February 7, 2007

Date Enrolled:

Date of Analysis: March 16, 2007

Position: The Department of Labor & Economic Growth supports the bill.

Problem/Background: In 1990 Congress passed and the President signed the federal Americans with Disabilities Act (ADA). This federal law imposes an obligation on employers, state and local governments, and businesses providing a variety of services to the public to provide for effective communication in such situations. Title I of the ADA applies to employment situations. Title II covers state and local government programs and services, including public schools and colleges. Title III applies to private entities, which are known as "public accommodations" in this title. The types of businesses covered by Title III of the ADA include places of lodging, restaurants, recreational facilities, banks, theaters, pharmacies, doctors and hospitals, private schools and colleges. In the case of a deaf person an appropriate accommodation under the ADA may be a sign language interpreter. If an interpreter is needed and is not provided or an unqualified interpreter is provided, the business or entity may be subject to Department of Justice enforcement action or a lawsuit.

Description of Bill: The bill amends the Deaf Persons' Interpreters Act to make the scope of Michigan's law comparable to the federal Americans with Disabilities Act of 1990. Qualified interpreters would now be required in all circumstances enumerated in the Americans with Disabilities Act. Interpreters may be qualified in several ways under the bill.

- Certification by the National Registry of Interpreters for the Deaf;
- Certification by any other national organization recognized by the Division of Deaf and Hard of Hearing;
- Certification through the state by the Division of Deaf and Hard of Hearing with advice from the Michigan Deaf Association and the Michigan Registry of Interpreters for the Deaf or their successor agencies.

The Division of Deaf and Hard of Hearing would be granted authority to promulgate rules by the bill. The division would be required to consult with the Michigan Registry of Interpreters of the Deaf and the Michigan Deaf Association in doing so.

A person who knows that he or she does not meet the definition of qualified interpreter and misrepresents that fact would be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $500 or more than $1,000, or both. An appointing authority other than a court that violates the bill's provisions would be guilty of a misdemeanor punishable by a fine of not less than $1,000 and not more than $10,000. An applicant for certification as a qualified interpreter by the Division for the Deaf and Hard of Hearing or a qualified interpreter certified through the division is subject to rejection of the application for certification or revocation, suspension, or limitation of his or her certification.

Summary of Arguments

Pro: Interpreters are crucial intermediaries for deaf people in school, health care settings, courts, and even the work place. It is therefore very important that communications be correctly translated. Unfortunately, current law limits the application of interpreter standards to the legal setting and is not sufficiently clear on the standards.

The bill does not impose any new requirements on Michigan businesses, state and local governments, courts, and other appointing authorities. It merely makes Michigan's law consistent with federal law.

The bill provides much greater clarity relating to the definition of "qualified interpreter" than Michigan's current law. This clarity will be helpful to those attempting to comply and to the public in knowing that their communication is more likely to be accurately interpreted.

In certain situations having a qualified interpreter is more than just helpful. In a health care situation interpreting the patient's symptoms and the doctor's instructions accurately can mean the difference between life and death. In an educational setting it is generally understood that interpreter is critically important to the ability of a deaf person to learn.

Con: The bill unnecessarily duplicates federal law and may be confusing to those trying to comply.

Fiscal/Economic Impact

(a) Department

Budgetary: The bill increases the responsibilities of the Division of Deaf and Hard of Hearing.

Revenue: The bill does not increase or decrease department revenue.

Comments:

(b) State

Budgetary: The bill will have no budgetary impact on the state.

Revenue: The bill will have no revenue impact.

Comments:

(c) Local Government

Comments: Local governments are affected only to the extent that they are already covered by the ADA.

Other State Departments: All state departments are affected, because state programs are covered by Article II of the ADA.

Michigan's Administrative Rules for Special Education (MARSE) specify the educational and training requirements for classroom personnel who provide instruction and assistive services for disabled students, including the deaf and hard of hearing. The Departments of Labor & Economic Growth and Education participated in a work group in 2004 with advocates and other stakeholders interested in deaf and hard of hearing issues. This bill was one of the recommendations of this work group. Another major recommendation was modification of the MARSE rule. The two recommendations, strengthening Michigan's law and the MARSE rule, were intended to work in tandem to increase interpreter qualifications and improve educational services to deaf and hard of hearing students. Other recommendations were designed to increase the supply of qualified interpreters by promoting interpreting as a profession and increasing the number of training programs.

Any Other Pertinent Information: A similar bill was introduced in the Senate by Senator Gleason (Senate Bill 25). Senator Gleason sponsored the bill last session when he was in the House.

Administrative Rules Impact: The bill includes broad rulemaking authority for the Division of Deaf and Hard of Hearing in the Department of Labor & Economic Growth.