

1985 Assembly Bill 622

Date of enactment: April 15, 1986  
Date of publication: April 29, 1986

## 1985 Wisconsin Act 266

AN ACT to renumber 47.03 (10) (c); to amend 905.015; to repeal and recreate 885.37; and to create 47.03 (10) (c) of the statutes, relating to interpreters for persons with language difficulties or hearing or speaking impairments.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 47.03 (10) (c) of the statutes is renumbered 47.03 (10) (d).

SECTION 2. 47.03 (10) (c) of the statutes is created to read:

47.03 (10) (c) The department shall maintain lists of qualified interpreters under s. 885.37 (5) (b).

SECTION 3. 885.37 of the statutes is repealed and recreated to read:

**885.37 Interpreters for persons with language difficulties or hearing or speaking impairments.** (1) (a) If a court has notice that a person fits any of the following criteria, the court shall make the determinations specified under par. (b):

1. The person is charged with a crime.
2. The person is a child or parent subject to ch. 48.
3. The person is subject to ch. 51 or 55.
4. The person is a witness in an action or proceeding under subd. 1, 2 or 3.

(b) If a court has notice that a person who fits any of the criteria under par. (a) has a language difficulty because of the inability to speak or understand English, has a hearing impairment, is unable to speak or has a speech defect, the court shall make a factual determination of whether the language difficulty or the hearing or speaking impairment is sufficient to prevent the individual from communicating with his or her attorney, reasonably understanding the English testimony or reasonably being understood in English. If the court determines that an interpreter is necessary, the court shall advise the person that he or she has a right to a qualified interpreter and that, if the person cannot afford one, an interpreter will be provided for him or her at the public's expense. Any waiver of the right to an interpreter is effective only if made voluntarily in person, in open court and on the record.

(2) A court may authorize the use of an interpreter in actions or proceedings in addition to those specified in sub. (1).

(3) (a) In this subsection:

1. "Agency" includes any official, employe or person acting on behalf of an agency.

2. "Contested case" means a proceeding before an agency in which, after a hearing required by law, substantial interests of any party to the proceeding are

determined or adversely affected by a decision or order in the proceeding and in which the assertion by one party of any such substantial interest is denied or controverted by another party to the proceeding.

(b) In any administrative contested case proceeding before a state, county or municipal agency, if the agency conducting the proceeding has notice that a party to the proceeding has a language difficulty because of the inability to speak or understand English, has a hearing impairment, is unable to speak or has a speech defect, the agency shall make a factual determination of whether the language difficulty or hearing or speaking impairment is sufficient to prevent the party from communicating with others, reasonably understanding the English testimony or reasonably being understood in English. If the agency determines that an interpreter is necessary, the agency shall advise the party that he or she has a right to a qualified interpreter. After considering the party's ability to pay and the other needs of the party, the agency may provide for an interpreter for the party at the public's expense. Any waiver of the right to an interpreter is effective only if made at the administrative contested case proceeding.

(3m) Any agency may authorize the use of an interpreter in a contested case proceeding for a person who is not a party but who has a substantial interest in the proceeding.

(4) (a) The necessary expense of furnishing an interpreter for an indigent person under sub. (1) or (2) shall be paid as follows:

1. In the supreme court or the court of appeals, the state shall pay the expense.
2. In circuit court, the county shall pay the expense.
3. In municipal court, the municipality shall pay the expense.

(b) The necessary expense of furnishing an interpreter for an indigent party under sub. (3) shall be paid by the unit of government for which the proceeding is held.

(c) The court or agency shall determine indigency under this section.

(5) (a) If a court under sub. (1) or (2) or an agency under sub. (3) decides to appoint an interpreter, the court or agency shall follow the applicable procedure under par. (b) or (c).

(b) The department of health and social services shall maintain a list of qualified interpreters for use with persons who have hearing impairments. The department shall distribute the list, upon request and without cost, to courts and agencies who must appoint interpreters. If an interpreter needs to be appointed for a person who has a hearing impairment, the court or agency shall appoint a qualified interpreter from the list. If no listed interpreter is available or able to interpret, the court or agency shall appoint as interpreter another person who is able to accurately communicate with and convey information to and receive information from the hearing-impaired person.

(c) If an interpreter needs to be appointed for a person with an impairment or difficulty not covered under par. (b), the court or agency may appoint any person the court or agency decides is qualified.

SECTION 4. 905.015 of the statutes is amended to read:

**905.015 (title) Interpreters for persons with language difficulties or hearing or speaking impairments.** If an interpreter for a ~~hearing-impaired person with a language difficulty or a hearing or speaking impairment~~ interprets as an aid to a communication which is privileged by statute, rules adopted by the supreme court or the U.S. or state constitution, the interpreter may be prevented from disclosing the communication by any person who has a right to claim the privilege. The interpreter may claim the privilege but only on behalf of the person who has the right. The authority of the interpreter to do so is presumed in the absence of evidence to the contrary.

**SECTION 5. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

| A                | B                  | C                   |
|------------------|--------------------|---------------------|
| Statute Sections | References Deleted | References Inserted |
| 15.191 (intro.)  | none               | 885.37 (5)(b)       |

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