

ASSEMBLY BILL NO. 365—ASSEMBLYWOMEN DIAZ AND FLORES

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions relating to court interpreters. (BDR 1-483)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to interpreters; revising certain provisions relating to court interpreters; requiring that interpreters be appointed in judicial proceedings where a person with a language barrier is a witness, defendant or litigant; requiring that an interpreter be provided upon the arrest of a person with a language barrier before any interrogation or the taking of a statement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the Court Administrator to adopt regulations which,
2 subject to the availability of funding, establish a program for the certification of
3 court interpreters. (NRS 1.510) **Sections 1 and 2** of this bill require the Court
4 Administrator to adopt regulations which, subject to the availability of funding,
5 establish criteria and procedures for the appointment of alternate court interpreters
6 under certain circumstances. **Sections 4-6, 8 and 9** of this bill require a certified
7 court interpreter or an alternate court interpreter to be provided in various judicial
8 proceedings for a person with a language barrier. A person with a language barrier
9 is defined in this bill as a person who speaks a language other than English and who
10 cannot readily understand or communicate in the English language. **Section 7** of
11 this bill revises existing law concerning the interrogation or the taking of a
12 statement of certain persons to provide that an interpreter be made available to
13 a person with a language barrier before any such interrogation or taking of a
14 statement.



* A B 3 6 5 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 1.510 is hereby amended to read as follows:

1.510 1. The Court Administrator shall, in consultation with the committee established pursuant to NRS 1.530, adopt regulations which, subject to the availability of funding, establish ~~that~~ :

(a) A program for the certification of court interpreters for *persons with language barriers who are* witnesses, defendants and litigants ~~who speak a language other than English and do not know the English language~~ ; and

(b) *Criteria and procedures for the appointment of alternate court interpreters for persons with language barriers who are witnesses, defendants and litigants.*

2. The regulations *established pursuant to paragraph (a) of subsection 1* must set forth:

(a) The specific languages for which court interpreters may obtain certification, based upon the need for interpreters of those languages.

(b) Any examination and the qualifications which are required for:

(1) Certification; and

(2) Renewal of the certification.

(c) The circumstances under which the Court Administrator will deny, suspend or refuse to renew a certificate.

(d) The circumstances under which the Court Administrator will take disciplinary action against a *certified* court interpreter ~~or an alternate court interpreter~~.

(e) The circumstances under which a court ~~must require the services of~~ *may appoint* an *alternate court* interpreter ~~who is certified~~.

(f) Except as otherwise provided in NRS 50.050, the rate and source of the compensation to be paid for services provided by a certified court interpreter ~~or an alternate court interpreter~~.

3. An application for a certificate as a court interpreter *pursuant to paragraph (a) of subsection 1* must include the social security number of the applicant.

4. Except as otherwise provided by a specific regulation of the Court Administrator, it is grounds for disciplinary action for a certified court interpreter *or an alternate court interpreter* to act as interpreter in any action in which:

(a) The spouse of the court interpreter is a party;

(b) A party or witness is otherwise related to the court interpreter;



(c) The court interpreter is biased for or against one of the parties; or

(d) The court interpreter otherwise has an interest in the outcome of the proceeding.

5. As used in this section, "person with a language barrier" means a person who speaks a language other than English and who cannot readily understand or communicate in the English language.

Sec. 2. NRS 1.520 is hereby amended to read as follows:

1.520 The Court Administrator may:

1. In consultation with the committee established pursuant to NRS 1.530, adopt any regulations necessary to ~~carry~~:

(a) Carry out a program for the certification of court interpreters.

(b) Establish criteria and procedures for the appointment of alternate court interpreters.

2. Impose on a certified court interpreter:

(a) Any fees necessary to reimburse the Court Administrator for the cost of administering the program; and

(b) A fine for any violation of a regulation of the Court Administrator adopted pursuant to this section or NRS 1.510.

Sec. 3. NRS 47.020 is hereby amended to read as follows:

47.020 1. This title governs proceedings in the courts of this State and before magistrates, except:

(a) To the extent to which its provisions are relaxed by a statute or procedural rule applicable to the specific situation; and

(b) As otherwise provided in subsection 3.

2. Except as otherwise provided in subsection 1, the provisions of chapter 49 of NRS with respect to privileges apply at all stages of all proceedings.

3. The other provisions of this title, **except with respect to provisions concerning a person with a language barrier**, do not apply to:

(a) Issuance of warrants for arrest, criminal summonses and search warrants.

(b) Proceedings with respect to release on bail.

(c) Sentencing, granting or revoking probation.

(d) Proceedings for extradition.

4. As used in this section, "person with a language barrier" has the meaning ascribed to it in NRS 1.510.

Sec. 4. Chapter 50 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An interpreter must be appointed at public expense for a person with a language barrier who is a defendant or a witness in a criminal proceeding.



2. *As used in this section:*

(a) *"Interpreter" means a person who:*

(1) *Has a certificate as an interpreter issued by the Court Administrator pursuant to NRS 1.510 and 1.520; or*

(2) *Is appointed as an alternate court interpreter in accordance with the criteria and procedures established pursuant to NRS 1.510 or 1.520.*

(b) *"Person with a language barrier" has the meaning ascribed to it in NRS 1.510.*

Sec. 5. NRS 50.054 is hereby amended to read as follows:

50.054 1. ~~{Except as otherwise provided by a regulation of the Court Administrator adopted pursuant to NRS 1.510 and 1.520, a person shall not act as an interpreter in a proceeding if the interpreter is:~~

~~—(a) The spouse of a witness;~~

~~—(b) Otherwise related to a witness;~~

~~—(c) Biased for or against one of the parties; or~~

~~—(d) Otherwise interested in the outcome of the proceeding.~~

~~2.} Before undertaking his or her duties, the interpreter shall swear or affirm that he or she will:~~

(a) To the best of his or her ability, translate accurately to the ~~{witness,}~~ *person with a language barrier* in the language of the ~~{witness,}~~ *person*, questions and statements addressed to the ~~{witness,}~~ *person*;

(b) Make a true interpretation of the statements of the ~~{witness,}~~ *person with a language barrier* in an understandable manner; and

(c) Repeat the statements of the ~~{witness,}~~ *person with a language barrier* in the English language to the best of his or her ability.

~~{3.}~~ 2. While in the proper performance of his or her duties, an interpreter has the same rights and privileges as the ~~{witness,}~~ *person with a language barrier*, including the right to examine all relevant material, but is not entitled to waive or exercise any of those rights or privileges on behalf of the *person with a language barrier*. ~~{witness.}~~

~~4.}~~ 3. *If an interpreter appointed for a person with a language barrier is not effectively or accurately communicating with or on behalf of the person, and that fact becomes known to the person who appointed the interpreter, another interpreter must be appointed.*

4. *Claims against a county, municipality, this State or any agency thereof for the compensation of an interpreter in a criminal proceeding or other proceeding for which an interpreter must be provided at public expense must be paid in the same manner as other claims against the respective entities are paid.*



1 *Payment may be made only upon the certificate of the judge,*
2 *magistrate or other person presiding over the proceedings that the*
3 *interpreter has performed the services required and incurred the*
4 *expense claimed.*

5 *5. If the judicial proceeding is civil in nature, the reasonable*
6 *fees of an interpreter must be paid by the requesting party.*

7 6. As used in this section ~~the "interpreter"~~

8 (a) *"Interpreter"* means a person who ~~is readily able to~~
9 ~~communicate with a person who speaks a language other than~~
10 ~~English and does not know the English language, translate the~~
11 ~~proceedings for him or her and accurately repeat and translate~~
12 ~~the statements of the person in a language other than English to the~~
13 ~~court, magistrate or other person presiding. The term does not~~
14 ~~include an interpreter for a person with a communications disability~~
15 ~~as that term is defined in NRS 50.050.~~

16 (1) *Has a certificate as an interpreter issued by the Court*
17 *Administrator pursuant to NRS 1.510 and 1.520; or*

18 (2) *Is appointed as an alternate court interpreter in*
19 *accordance with the criteria and procedures established pursuant*
20 *to NRS 1.510 or 1.520.*

21 (b) *"Person with a language barrier" has the meaning*
22 *ascribed to it in NRS 1.510.*

23 **Sec. 6.** Chapter 62D of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 1. *The juvenile court shall appoint at public expense an*
26 *interpreter for a person with a language barrier in all proceedings*
27 *conducted pursuant to the provisions of this title if the person with*
28 *a language barrier is:*

29 (a) *The child who is alleged to be or has been adjudicated*
30 *delinquent or in need of supervision;*

31 (b) *A parent or guardian of the child that is alleged to be or*
32 *has been adjudicated delinquent or in need of supervision; or*

33 (c) *A person who appears as a witness.*

34 2. *As used in this section:*

35 (a) *"Interpreter" means a person who:*

36 (1) *Has a certificate as an interpreter issued by the Court*
37 *Administrator pursuant to NRS 1.510 and 1.520; or*

38 (2) *Is appointed as an alternate court interpreter in*
39 *accordance with the criteria and procedures established pursuant*
40 *to NRS 1.510 or 1.520.*

41 (b) *"Person with a language barrier" has the meaning*
42 *ascribed to it in NRS 1.510.*

43 **Sec. 7.** NRS 171.1536 is hereby amended to read as follows:

44 171.1536 Upon the arrest of a person with a communications
45 disability , as defined in NRS 50.050, *or a person with a language*



1 *barrier, as defined in NRS 1.510*, and before any interrogation or
2 the taking of a statement, the peace officer in actual charge of the
3 station, headquarters or other facility to which the person with a
4 communications disability *or person with a language barrier* has
5 been brought shall make an interpreter available at public expense to
6 that person in accordance with the provisions of NRS 50.050 to
7 50.053, inclusive *H* , *or 50.054 and section 4 of this act, as*
8 *applicable.*

9 **Sec. 8.** NRS 213.055 is hereby amended to read as follows:

10 213.055 An applicant or a witness at a hearing upon an
11 application for clemency who is a person with a communications
12 disability , as defined in NRS 50.050 , *or a person with a language*
13 *barrier, as defined in NRS 1.510*, is entitled to the services of an
14 interpreter at public expense in accordance with the provisions of
15 NRS 50.050 to 50.053, inclusive *H* , *or 50.054 and section 4 of this*
16 *act, as applicable.* The interpreter must be appointed by the
17 Governor or a member of the Board designated by the Governor.

18 **Sec. 9.** NRS 213.128 is hereby amended to read as follows:

19 213.128 A prisoner, parolee or a witness at the hearing of a
20 case who is a person with a communications disability , as defined
21 in NRS 50.050 , *or is a person with a language barrier, as defined*
22 *in NRS 1.510*, is entitled to the services of an interpreter at public
23 expense in accordance with the provisions of NRS 50.050 to 50.053,
24 inclusive , *or 50.054 and section 4 of this act, as applicable.* The
25 interpreter must be appointed by the Chair of the Board or other
26 person who presides at the hearing.

27 **Sec. 10.** 1. This act becomes effective on July 1, 2013.

28 2. Section 1 of this act expires by limitation on the date on
29 which the provisions of 42 U.S.C. § 666 requiring each state to
30 establish procedures under which the state has authority to withhold
31 or suspend, or to restrict the use of professional, occupational and
32 recreational licenses of persons who:

33 (a) Have failed to comply with a subpoena or warrant relating to
34 a proceeding to determine the paternity of a child or to establish or
35 enforce an obligation for the support of a child; or

36 (b) Are in arrears in the payment for the support of one or more
37 children,

38 ➡ are repealed by the Congress of the United States.

