

Amendment No. 124

Assembly Amendment to Assembly Bill No. 365

(BDR 1-483)

Proposed by: Assembly Committee on Judiciary

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

VMS/DY



Date: 4/5/2013

A.B. No. 365—Revises certain provisions relating to court interpreters.

(BDR 1-483)



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 certain 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;~~ requiring the Advisory Commission on the Administration of Justice to appoint a subcommittee to conduct an interim study concerning language access in the courts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

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

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. *The criteria and procedures established pursuant to paragraph (b) of subsection 1 must set forth an order of preference, subject to the direction of a court for the appointment of a certified court interpreter before an alternate court interpreter.*

6. *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~~ :

1 (a) Carry out a program for the certification of court interpreters.
2 (b) Establish criteria and procedures for the appointment of alternate court
3 interpreters.

4 2. Impose on a certified court interpreter:

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

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

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

10 47.020 1. This title governs proceedings in the courts of this State and
11 before magistrates, except:

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

14 (b) As otherwise provided in subsection 3.

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

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

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

20 (b) Proceedings with respect to release on bail.

21 (c) Sentencing, granting or revoking probation.

22 (d) Proceedings for extradition.

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

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

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

29 2. As used in this section:

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

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

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

35 (b) "Person with a language barrier" has the meaning ascribed to it in NRS
36 1.510.

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

38 50.054 1. Except as otherwise provided by a regulation of the Court
39 Administrator adopted pursuant to NRS 1.510 and 1.520, a person shall not act as
40 an interpreter in a proceeding if the interpreter is:

41 (a) The spouse of a witness;

42 (b) Otherwise related to a witness;

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

44 (d) Otherwise interested in the outcome of the proceeding.

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

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

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

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

3. ~~124~~ While in the proper performance of his or her duties, an interpreter has the same rights and privileges as the ~~twitness, 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 ~~twitness, person with a language barrier.~~

4. ~~124~~ 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.

~~124~~ 5. 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. Payment may be made only upon the certificate of the judge, magistrate or other person presiding over the proceedings that the interpreter has performed the services required and incurred the expense claimed.

~~124~~ 5. If the judicial proceeding is civil in nature, the reasonable fees of an interpreter must be paid by the requesting party.

6. As used in this section ~~124~~ ~~“interpreter”~~:

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

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

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

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

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

(c) A person who appears as a witness.

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. 7. ~~NRS 171.1536 is hereby amended to read as follows:~~

~~171.1536 Upon the arrest of a person with a communications disability, as defined in NRS 50.050, or a person with a language barrier, as defined in NRS 1.510, and before any interrogation or the taking of a statement, the peace officer in~~

1 actual charge of the station, headquarters or other facility to which the person with
2 a communications disability or person with a language barrier has been brought
3 shall make an interpreter available at public expense to that person in accordance
4 with the provisions of NRS 50.050 to 50.053, inclusive [] , or 50.054 and section 4
5 of this act, as applicable. (Deleted by amendment.)

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

7 ~~213.055 An applicant or a witness at a hearing upon an application for~~
8 ~~elementary who is a person with a communications disability, as defined in NRS~~
9 ~~50.050, or a person with a language barrier, as defined in NRS 1.510, is entitled~~
10 ~~to the services of an interpreter at public expense in accordance with the provisions~~
11 ~~of NRS 50.050 to 50.053, inclusive [] , or 50.054 and section 4 of this act, as~~
12 ~~applicable. The interpreter must be appointed by the Governor or a member of the~~
13 ~~Board designated by the Governor.] (Deleted by amendment.)~~

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

15 ~~213.128 A prisoner, parolee or a witness at the hearing of a case who is a~~
16 ~~person with a communications disability, as defined in NRS 50.050, or is a person~~
17 ~~with a language barrier, as defined in NRS 1.510, is entitled to the services of an~~
18 ~~interpreter at public expense in accordance with the provisions of NRS 50.050 to~~
19 ~~50.053, inclusive, or 50.054 and section 4 of this act, as applicable. The~~
20 ~~interpreter must be appointed by the Chair of the Board or other person who~~
21 ~~presides at the hearing.] (Deleted by amendment.)~~

22 **Sec. 10. 1.** The Advisory Commission on the Administration of Justice
23 created pursuant to NRS 176.0123 shall appoint a subcommittee to conduct an
24 interim study concerning language access in the courts of the State of Nevada,
25 and make a report thereof.

26 **2.** The study and report must include, without limitation:

27 (a) An evaluation of:

28 (1) The current system used in this State to provide court interpreters
29 in criminal and civil proceedings;

30 (2) The systems used in other states to provide court interpreters in
31 criminal and civil proceedings; and

32 (3) The current condition of federal and state laws regarding the
33 provision of court interpreters in criminal and civil proceedings.

34 (b) Recommendations regarding, without limitation:

35 (1) Necessary statutory changes to facilitate language access in the
36 courts;

37 (2) Necessary statutory changes to comply with any federal law related
38 to language access in the courts; and

39 (3) Methods for raising any revenue necessary to provide court
40 interpreters in criminal and civil proceedings or to increase language access in
41 the courts.

42 **3.** The subcommittee shall submit a report of the results of the study and
43 any recommendations for legislation to the Director of the Legislative Counsel
44 Bureau for transmission to the 78th Session of the Nevada Legislature and the
45 Supreme Court.

46 ~~[Sec. 10.]~~ **Sec. 11. 1.** This act becomes effective on July 1, 2013.

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

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

- 1 (b) Are in arrears in the payment for the support of one or more children,
- 2 ➡ are repealed by the Congress of the United States.