

AMENDED IN SENATE JUNE 15, 2014

AMENDED IN ASSEMBLY APRIL 29, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1657

**Introduced by Assembly Member Gomez
(Coauthor: Assembly Member Chau)**

February 11, 2014

An act to add Section 756 to, and to repeal Section 755 of, the Evidence Code, and to add Section 68092.1 to the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1657, as amended, Gomez. Courts: interpreters.

~~The~~

(1) *The* California Constitution provides that a person unable to understand English who is charged with a crime has the right to an interpreter throughout the proceedings. Existing statutory law requires, in any civil or criminal action, as specified, a sign language interpreter to be appointed for a party or witness who is deaf or hearing-impaired and generally requires the payment of these court interpreters' fees to be a charge against the court.

~~Existing law also requires, in any specified action or proceeding relating to domestic violence, an interpreter to be provided by the court for a party who does not proficiently speak or understand the English language to interpret the proceedings in a language that the party understands and to assist communication between the party and his or her attorney. Existing law generally requires court interpreters' fees to be paid by the litigants in civil cases, as directed by the court, but further~~

requires the fees of an interpreter to be waived for a party who needs an interpreter and appears in forma pauperis.

This bill would expressly authorize the court to provide a court interpreter in any civil action or proceeding at no cost to the parties, regardless of the income of the parties. The bill would require interpreters to be provided in accordance with a specified order of priority, ~~if~~ *until* sufficient funds are ~~not~~ appropriated to provide an interpreter to every party who needs one.

(2) Existing law requires, in any action or proceeding under specified provisions of the Family Code relating to domestic violence, an interpreter to be provided by the court for a party who does not proficiently speak or understand the English language to interpret the proceedings in a language that the party understands and to assist communication between the party and his or her attorney, except that a court is authorized to issue prescribed orders ex parte without an interpreter. Existing law requires the fees of these interpreters to be paid by the parties, except that these fees shall be waived for parties who need an interpreter and appear in forma pauperis.

This bill would repeal those provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 755 of the Evidence Code is repealed.
2 755. ~~(a) In any action or proceeding under Division 10~~
3 ~~(commencing with Section 6200) of the Family Code, and in any~~
4 ~~action or proceeding under the Uniform Parentage Act (Part 3~~
5 ~~(commencing with Section 7600) of Division 12 of the Family~~
6 ~~Code) or for dissolution or nullity of marriage or legal separation~~
7 ~~of the parties in which a protective order has been granted or is~~
8 ~~being sought pursuant to Section 6221 of the Family Code, in~~
9 ~~which a party does not proficiently speak or understand the English~~
10 ~~language, and that party is present, an interpreter, as provided in~~
11 ~~this section, shall be present to interpret the proceedings in a~~
12 ~~language that the party understands, and to assist communication~~
13 ~~between the party and his or her attorney. Notwithstanding this~~
14 ~~requirement, a court may issue an ex parte order pursuant to~~
15 ~~Sections 2045 and 7710 of, and Article 1 (commencing with~~
16 ~~Section 6320) of Chapter 2 of Part 4 of Division 10 of the Family~~

1 Code, without the presence of an interpreter. The interpreter
2 selected shall be certified pursuant to Article 4 (commencing with
3 Section 68560) of Chapter 2 of Title 8 of the Government Code,
4 unless the court in its discretion appoints an interpreter who is not
5 certified.

6 (b) The fees of interpreters utilized under this section shall be
7 paid as provided in subdivision (b) of Section 68092 of the
8 Government Code. However, the fees of an interpreter shall be
9 waived for a party who needs an interpreter and appears in forma
10 pauperis pursuant to Section 68511.3 of the Government Code.
11 The Judicial Council shall amend subdivision (i) of California
12 Rule of Court 985 and revise its forms accordingly by July 1, 1996.

13 (e) In any civil action in which an interpreter is required under
14 this section, the court shall not commence proceedings until the
15 appointed interpreter is present and situated near the party and his
16 or her attorney. However, this section shall not prohibit the court
17 from doing any of the following:

18 (1) Issuing an order when the necessity for the order outweighs
19 the necessity for an interpreter.

20 (2) Extending the duration of a previously issued temporary
21 order if an interpreter is not readily available.

22 (3) Issuing a permanent order where a party who requires an
23 interpreter fails to make appropriate arrangements for an interpreter
24 after receiving proper notice of the hearing with information about
25 obtaining an interpreter.

26 (d) This section does not prohibit the presence of any other
27 person to assist a party.

28 (e) A local public entity may, and the Judicial Council shall,
29 apply to the appropriate state agency that receives federal funds
30 authorized pursuant to the federal Violence Against Women Act
31 (P.L. 103-322) for these federal funds or for funds from sources
32 other than the state to implement this section. A local public entity
33 and the Judicial Council shall comply with the requirements of
34 this section only to the extent that any of these funds are made
35 available.

36 (f) The Judicial Council shall draft rules and modify forms
37 necessary to implement this section, including those for the petition
38 for a temporary restraining order and related forms, to inform both
39 parties of their right to an interpreter pursuant to this section.

1 SECTION 1.

2 SEC. 2. Section 756 is added to the Evidence Code, to read:

3 756. (a) To the extent required by other state or federal laws,
4 the Judicial Council shall reimburse courts for court interpreter
5 services provided in civil actions and proceedings to any party
6 who is present in court and who does not proficiently speak or
7 understand the English language for the purpose of interpreting
8 the proceedings in a language the party understands, and assisting
9 communications between the party, his or her attorney, and the
10 court.

11 (b) If sufficient funds are not appropriated to provide an
12 interpreter to every party that meets the standard of eligibility, ~~the~~
13 ~~expansion of court interpreter services shall be phased in civil~~
14 ~~cases reimbursed by the Judicial Council, pursuant to subdivision~~
15 ~~(a), shall be prioritized by case type by each court in the following~~
16 order:

17 ~~(1) Parties proceeding in forma pauperis, pursuant to Section~~
18 ~~68631 of the Government Code, in the following types of actions~~
19 ~~and proceedings:~~

20 ~~(A)~~

21 ~~(1) Actions and proceedings relating to domestic violence,~~
22 ~~including family law matters that include issues of domestic~~
23 ~~violence, and under Division 10 (commencing with Section 6200)~~
24 ~~of the Family Code, actions or proceedings under the Uniform~~
25 ~~Parentage Act (Part 3 (commencing with Section 7600) of Division~~
26 ~~12 of the Family Code) in which a protective order has been~~
27 ~~granted or is being sought pursuant to Section 6221 of the Family~~
28 ~~Code, and actions and proceedings for dissolution or nullity of~~
29 ~~marriage or legal separation of the parties in which a protective~~
30 ~~order has been granted or is being sought pursuant to Section~~
31 ~~6221 of the Family Code; actions and proceedings under~~
32 ~~subdivision (w) of Section 527.6 of the Code of Civil Procedure;~~
33 ~~and actions and proceedings for physical abuse or neglect under~~
34 the Elder Abuse and Dependent Adult Civil Protection Act
35 (Chapter 11 (commencing with Section 15600) of Part 3 of
36 Division 9 of the Welfare and Institutions Code).

37 (2) Actions and proceedings relating to unlawful detainer.

38 ~~(B)~~

39 (3) Actions and proceedings to terminate parental rights.

40 ~~(C)~~

1 (4) Actions and proceedings relating to conservatorship or
2 guardianship, including the appointment or termination of a probate
3 guardian or conservator.

4 ~~(D) Actions and proceedings relating to unlawful detainer.~~

5 ~~(E)~~

6 (5) Actions and proceedings by a parent to obtain sole legal or
7 physical custody of a child or rights to visitation.

8 ~~(2) Parties proceeding in forma pauperis, pursuant to Section~~
9 ~~68631 of the Government Code, in the following types of actions~~
10 ~~and proceedings:~~

11 ~~(6) All other actions and proceedings under Section 527.6 of~~
12 ~~the Code of Civil Procedures or the Elder Abuse and Dependent~~
13 ~~Adult Civil Protection Act (Chapter 11 (commencing with Section~~
14 ~~15600) of Part 3 of Division 9 of the Welfare and Institutions~~
15 ~~Code).~~

16 ~~(A)~~

17 (7) All other actions and proceedings related to family law.

18 ~~(B) Actions and proceedings under Section 527.6 of the Code~~
19 ~~of Civil Procedure.~~

20 ~~(3) Actions and proceedings in which a party is not appearing~~
21 ~~in forma pauperis relating to domestic violence, including family~~
22 ~~law matters that include issues of domestic violence, and actions~~
23 ~~and proceedings under the Elder Abuse and Dependent Adult Civil~~
24 ~~Protection Act (Chapter 11 (commencing with Section 15600) of~~
25 ~~Part 3 of Division 9 of the Welfare and Institutions Code).~~

26 ~~(4)~~

27 (8) All other civil actions or proceedings in which a party is
28 appearing in forma pauperis pursuant to Section 68631 of the
29 Government Code. *proceedings.*

30 ~~(5) All other civil actions or proceedings in which a party is not~~
31 ~~appearing in forma pauperis.~~

32 ~~(c) (1) If funds are not available to provide an interpreter to~~
33 ~~every party that meets the standard of eligibility, preference shall~~
34 ~~be given for parties proceeding in forma pauperis pursuant to~~
35 ~~Section 68631 of the Government Code in any civil action or~~
36 ~~proceeding described in paragraph (3), (4), (5), (6), (7), or (8) of~~
37 ~~subdivision (b).~~

38 (2) Courts may provide an interpreter to a party outside the
39 priority order listed in subdivision (b) when a qualified interpreter
40 is present and available at the court location and no higher priority

1 *action that meets the standard of eligibility described in subdivision*
2 *(a) is taking place at that location during the period of time for*
3 *which the interpreter has already been compensated.*

4 ~~(e)~~

5 *(d) A party shall not be charged a fee for the provision of a the*
6 *court interpreter.*

7 *(e) In seeking reimbursement for court interpreter services, the*
8 *court shall identify to the Judicial Council the case types for which*
9 *the interpretation to be reimbursed was provided.*

10 ~~(d)~~

11 *(f) This section shall not be construed to alter, limit, or negate*
12 *any right to an interpreter in a civil action or proceeding otherwise*
13 *provided by state or federal law, or the right to an interpreter in*
14 *criminal, traffic, or other infraction, juvenile, or mental competency*
15 *actions or proceedings.*

16 ~~(e)~~

17 *(g) This section shall not result in a reduction in staffing or*
18 *compromise the quality of interpreting services in criminal,*
19 *juvenile, or other types of matters in which interpreters are*
20 *provided.*

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 68092.1 is added to the Government Code, to
23 read:

24 68092.1. ~~Notwithstanding~~ *(a) The Legislature finds and*
25 *declares that it is imperative that courts provide interpreters to*
26 *all parties who require one, and that both the legislative and*
27 *judicial branches of government continue in their joint commitment*
28 *to carry out this shared goal.*

29 *(b) Notwithstanding* Section 26806 or 68092, or any other law,
30 a court may provide an interpreter in any civil action or proceeding
31 at no cost to the parties, regardless of the income of the parties. ~~If~~
32 *However, until sufficient funds are not appropriated to provide an*
33 *interpreter to every party who needs one, interpreters shall initially*
34 *be provided in accordance with the priorities set forth in Section*
35 *756 of the Evidence Code.*