

AMENDED IN SENATE APRIL 25, 2001

AMENDED IN SENATE APRIL 16, 2001

SENATE BILL

No. 927

Introduced by Senator Escutia

(Principal coauthors: Assembly Members Cardenas, Cohn, Keeley,
and Shelley)

February 23, 2001

An act to amend Sections 754 and 755 of the Evidence Code, and to
amend Section 68562 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 927, as amended, Escutia. Courts: domestic violence:
interpreters.

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 provides
that in any civil or criminal action, as specified, a sign language
interpreter shall be appointed at county expense for an individual who
is deaf or hearing impaired.

Existing law also provides that in any action or proceeding under
specified provisions of the Family Code relating to domestic violence,
in which a party does not proficiently speak or understand the English
language, and in which that party is present, a foreign language
interpreter shall be present 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 may issue prescribed
orders ex parte without an interpreter. Existing law also provides that
the court shall not commence proceedings until the foreign language

interpreter is present, except as provided. Existing law specifies that the fees of these interpreters shall be paid by the parties, except that these fees shall be waived for parties who need an interpreter and appear in forma pauperis. Existing law requires the Judicial Council to apply for certain federal and other funds other than state funds, and authorizes local public entities to apply for certain federal and other funds, in connection therewith.

This bill would require the appointment in domestic violence proceedings, as specified, and in other settings mandated by the court, of an interpreter for a person who is deaf or hearing impaired as well as the appointment of a foreign language interpreter for a person not proficient in English; would require certified or registered sign language interpreters in these proceedings; and would limit the services of foreign language interpreters to certified or registered interpreters. The bill would provide for the waiver of fees for an interpreter for a ~~petitioner~~ party who is not proficient in English in domestic violence proceedings, as well as for ~~any person~~ a party who appears in forma pauperis, ~~or for any other party pursuant to a court order as specified.~~ This bill would also require the Judicial Council to establish additional domestic violence training requirements for interpreters, as specified, and to conduct a public education and notification program. The bill would require the Judicial Council, in coordination with its Court Interpreter Advisory Panel, to report to the Legislature regarding the effectiveness of this act no later than January 1, 2007.

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 754 of the Evidence Code is amended
 2 to read:
 3 754. (a) As used in this section, “individual who is deaf or
 4 hearing impaired” means an individual with a hearing loss so great
 5 as to prevent his or her understanding language spoken in a normal
 6 tone, but does not include an individual who is hearing impaired
 7 provided with, and able to fully participate in the proceedings
 8 through the use of, an assistive listening system or computer-aided
 9 transcription equipment provided pursuant to Section 54.8 of the
 10 Civil Code.

(b) In any civil or criminal action, including, but not limited to, any action involving a traffic or other infraction, any small claims court proceeding, any juvenile court proceeding, any family court proceeding or service, or any proceeding to determine the mental competency of a person, in any court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or any administrative hearing, where a party or witness is an individual who is deaf or hearing impaired and the individual who is deaf or hearing impaired is present and participating, the proceedings shall be interpreted in a language that the individual who is deaf or hearing impaired understands by a qualified interpreter appointed by the court or other appointing authority, or as agreed upon.

(c) For purposes of this section, “appointing authority” means a court, department, board, commission, agency, licensing or legislative body, or other body for proceedings requiring a qualified interpreter.

(d) For the purposes of this section, “interpreter” includes, but is not limited to, an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hearing impaired.

(e) For purposes of this section, “intermediary interpreter” means an individual who is deaf or hearing impaired, or a hearing individual who is able to assist in providing an accurate interpretation between spoken English and sign language or between variants of sign language or between American Sign Language and languages other than English by acting as an intermediary between the individual who is deaf or hearing impaired and the qualified interpreter.

(f) For purposes of this section, “qualified interpreter” means an interpreter who has been certified or registered as competent to interpret court proceedings by a testing organization, agency, or educational institution approved by the Judicial Council as qualified to administer tests to court interpreters for individuals who are deaf or hearing impaired.

(g) In the event that the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hearing impaired or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with

1 the individual who is deaf or hearing impaired or his or her
2 representative, appoint an intermediary interpreter.

3 (h) Prior to July 1, 1992, the Judicial Council shall conduct a
4 study to establish the guidelines pursuant to which it shall
5 determine which testing organizations, agencies, or educational
6 institutions will be approved to administer tests for certification of
7 court interpreters for individuals who are deaf or hearing impaired.
8 It is the intent of the Legislature that the study obtain the widest
9 possible input from the public, including, but not limited to,
10 educational institutions, the judiciary, linguists, members of the
11 State Bar, court interpreters, members of professional interpreting
12 organizations, and members of the deaf and hearing-impaired
13 communities. After obtaining public comment and completing its
14 study, the Judicial Council shall publish these guidelines. By
15 January 1, 1997, the Judicial Council shall approve one or more
16 entities to administer testing for court interpreters for individuals
17 who are deaf or hearing impaired. Testing entities may include
18 educational institutions, testing organizations, joint powers
19 agencies, or public agencies.

20 Commencing July 1, 1997, court interpreters for individuals
21 who are deaf or hearing impaired shall meet the qualifications
22 specified in subdivision (f).

23 (i) Persons appointed to serve as interpreters under this section
24 shall be paid, in addition to actual travel costs, the prevailing rate
25 paid to persons employed by the court to provide other interpreter
26 services unless such service is considered to be a part of the
27 person's regular duties as an employee of the state, county, or other
28 political subdivision of the state. Payment of the interpreter's fee
29 shall be a charge against the county, or other political subdivision
30 of the state, in which that action is pending. Payment of the
31 interpreter's fee in administrative proceedings shall be a charge
32 against the appointing board or authority.

33 (j) Whenever a peace officer or any other person having a law
34 enforcement or prosecutorial function in any criminal or
35 quasi-criminal investigation or proceeding questions or otherwise
36 interviews an alleged victim or witness who demonstrates or
37 alleges deafness or hearing impairment, a good faith effort to
38 secure the services of an interpreter shall be made, without any
39 unnecessary delay unless either the individual who is deaf or
40 hearing impaired affirmatively indicates that he or she does not



1 need or cannot use an interpreter, or an interpreter is not otherwise
2 required by Title II of the Americans with Disabilities Act of 1990
3 (Public Law 101-336) and federal regulations adopted thereunder.

4 (k) No statement, written or oral, made by an individual who
5 the court finds is deaf or hearing impaired in reply to a question of
6 a peace officer, or any other person having a law enforcement or
7 prosecutorial function in any criminal or quasi-criminal
8 investigation or proceeding, may be used against that individual
9 who is deaf or hearing impaired unless the question was accurately
10 interpreted and the statement was made knowingly, voluntarily,
11 and intelligently and was accurately interpreted, or the court
12 makes special findings that either the individual could not have
13 used an interpreter or an interpreter was not otherwise required by
14 Title II of the Americans with Disabilities Act of 1990 (Public Law
15 101-336) and federal regulations adopted thereunder and that the
16 statement was made knowingly, voluntarily, and intelligently.

17 (l) In obtaining services of an interpreter for purposes of
18 subdivision (j) or (k), priority shall be given to first obtaining a
19 qualified interpreter.

20 (m) Nothing in subdivision (j) or (k) shall be deemed to
21 supersede the requirement of subdivision (b) for use of a qualified
22 interpreter for individuals who are deaf or hearing impaired
23 participating as parties or witnesses in a trial or hearing.

24 (n) In any action or proceeding in which an individual who is
25 deaf or hearing impaired is a participant, the appointing authority
26 shall not commence proceedings until the appointed interpreter is
27 in full view of and spatially situated to assure proper
28 communication with the participating individual who is deaf or
29 hearing impaired.

30 (o) Each superior court shall maintain a current roster of
31 qualified interpreters certified pursuant to subdivision (f).

32 SEC. 2. Section 755 of the Evidence Code is amended to read:

33 755. (a) In any action or proceeding under Division 10
34 (commencing with Section 6200) of the Family Code, and in any
35 action or proceeding under the Uniform Parentage Act (Part 3
36 (commencing with Section 7600) of Division 12 of the Family
37 Code) or for dissolution or nullity of marriage or legal separation
38 of the parties in which a protective order has been granted or is
39 being sought pursuant to Section 6221 of the Family Code, or in
40 other settings mandated by the court, including mediation with

1 Family Court Services and for family law facilitator meetings
2 when the mediator or facilitator does not speak the language of a
3 party, in which a party is deaf or hearing impaired or does not
4 proficiently speak or understand the English language, and that
5 party is present, a sign language interpreter qualified pursuant to
6 Section 754 of this code or an interpreter of languages other than
7 English qualified pursuant to Section 68561 of the Government
8 Code, as appropriate, shall be present to interpret the proceedings
9 in sign language or a language that the party understands,
10 respectively, and to assist communication between the party and
11 his or her attorney. The first priority for providing interpreters
12 shall be in courtroom proceedings. Interpreters shall be assigned
13 for mediation with Family Court Services and for family law
14 facilitator meetings only if it does not result in a shortage of
15 interpreters for courtroom proceedings.

16 (b) (1) The fees of interpreters for parties who are deaf or
17 hearing impaired shall be paid pursuant to subdivision (i) of
18 Section 754.

19 (2) The fees of interpreters for all other parties shall be paid
20 pursuant to Chapter 13 (commencing with Section 77000) of Title
21 8 of the Government Code. However, the fees of an interpreter
22 ~~shall be waived for a party who does not proficiently~~ shall be
23 ~~waived for either of the following:~~

24 (A) ~~A party who does not proficiently speak or understand the~~
25 ~~English language in any action or proceeding brought under~~
26 ~~Division 10 (commencing with Section 6200) of the Family Code~~
27 ~~and for any party who appears in forma pauperis pursuant to~~
28 ~~Section 68511.3 of the Government Code or for any family law~~
29 ~~proceeding which contains allegations of domestic violence. The~~
30 ~~6200) of the Family Code or in any proceeding which contains~~
31 ~~allegations of domestic violence.~~

32 (B) ~~Any party who appears in forma pauperis pursuant to~~
33 ~~Section 68511.3 of the Government Code.~~

34 (3) ~~The fees of an interpreter for a party under subparagraph~~
35 ~~(A) of paragraph (2) who is found by the court to be the sole or~~
36 ~~more culpable perpetrator of domestic violence shall be waived~~
37 ~~only if the party appears in forma pauperis pursuant to Section~~
38 ~~68511.3 of the Government Code.~~

39 The Judicial Council shall amend subdivision (i) of Rule 985 of
40 the California Rules of Court and revise its forms accordingly.

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

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

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

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

(d) This section does not prohibit the presence of any other person, such as a support person authorized under Section 6303 of the Family Code, to assist a party.

(e) The Judicial Council shall apply to the appropriate state agency that receives federal funds authorized pursuant to the federal Violence Against Women Act (P.L. 103-322) for these federal funds or for funds from sources other than the state to implement this section.

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

SEC. 3. Section 68562 of the Government Code is amended to read:

68562. (a) The Judicial Council shall designate the languages for which certification programs shall be established under subdivision (b). The language designations shall be based on (1) the courts' needs as determined by the language and interpreter use and need studies under Section 68563, (2) the language needs of non-English-speaking persons in the courts, and (3) other information the Judicial Council deems relevant.

(b) By July 1, 1996, the Judicial Council shall approve one or more entities to certify Spanish language interpreters and interpreters for as many other languages designated under subdivision (a) as practicable by that date. The Judicial Council may give provisional approval to an entity to examine interpreters

1 and establish a list of recommended court interpreters pending
2 final approval of one or more certification entities. Certification
3 entities may include educational institutions, testing
4 organizations, joint powers agencies, or public agencies.

5 The Judicial Council shall adopt and publish guidelines,
6 standards, and procedures to determine which certification entities
7 will be approved to test and certify interpreters.

8 (c) The Judicial Council shall develop and implement
9 procedures to administer the list of recommended court
10 interpreters previously established by the State Personnel Board
11 and the list established by an entity provisionally approved under
12 subdivision (b).

13 The Judicial Council shall develop procedures and standards for
14 certifying without reexamination interpreters on the list of
15 recommended court interpreters (1) previously established by the
16 State Personnel Board, or (2) established by an entity provisionally
17 approved under subdivision (b). Certification of these interpreters
18 shall be based on criteria determined by the Judicial Council, such
19 as recent interpreting experience, performance in court or at
20 administrative hearings, training, and continuing education.

21 (d) The Judicial Council shall adopt standards and
22 requirements for interpreter proficiency, continuing education,
23 certification renewal, and discipline. The Judicial Council shall
24 adopt standards of professional conduct for court interpreters.

25 (e) The Judicial Council shall adopt programs for interpreter
26 recruiting, training, and continuing education and evaluation to
27 ensure that an adequate number of interpreters is available and that
28 they interpret competently.

29 (f) The Judicial Council shall establish guidelines for fees or
30 shall set and charge fees for applications to take the court
31 interpreter examinations, for renewal of certifications, for
32 certification of interpreters on the list of recommended court
33 interpreters, for maintaining interpreters on the recommended list
34 until January 1, 1996, and for other functions and services
35 provided under this article. All fees and other revenues received
36 by the Judicial Council under this article shall be transferred
37 promptly to the Controller, and shall be placed in the Court
38 Interpreters' Fund, which is hereby created, the moneys in which
39 shall be available to carry out the purposes of this article upon
40 appropriation by the Legislature.

1 (g) Each superior and municipal court may adopt local rules to
2 impose additional requirements, standards, examinations, and
3 programs as necessary for equity or to recognize local conditions.

4 (h) The Judicial Council shall require minimum training
5 standards for interpreters of three hours of instruction and
6 coursework in the dynamics of domestic violence within the first
7 year of certification or registration, and three hours of continuing
8 education credits on a biannual basis. The three hours continuing
9 education credits shall be part of, and not in addition to, the
10 existing 30-hour biannual continuing education requirement. The
11 initial training and continuing education shall include an overview
12 of domestic violence and family law terminology and
13 proceedings, development of skills for working with victims of
14 violence and traumatized individuals, and training in the dynamics
15 of domestic violence. None of the initial three hours, and no more
16 than one hour of the continuing education requirement, may be
17 fulfilled by self-study coursework. Training and coursework
18 offered pursuant to this subdivision shall be developed and
19 conducted in partnership with the Judicial Council Court
20 Interpreter's Advisory Panel and nonprofit community based
21 organizations whose primary purpose is to serve survivors of
22 domestic violence. Training pursuant to this subdivision shall be
23 approved for Court Interpreter Minimum Continuing Education
24 through the Judicial Council Court Interpreter's Advisory Panel.
25 Community-based organizations offering this training shall be
26 compensated with a materials fee. All training required pursuant
27 to this subdivision shall apply to interpreters for the deaf as
28 described in Sections 750 to 755, inclusive, of the Evidence Code
29 as well as to interpreters of other languages.

30 (i) The Judicial Council shall conduct a public education and
31 notification program regarding this section and Sections 750 to
32 755, inclusive, of the Evidence Code, to assure a high degree of
33 publicity with respect to these provisions. This public education
34 program shall include, but is not limited to, the following:

35 (1) Each court and family law facilitator's office shall post in
36 a conspicuous place a notice, 8.5 by 11 inches or larger, advising
37 parties in multiple languages, including, but not limited to,
38 English, Spanish, Tagalog, Arabic, Cantonese, Vietnamese,
39 Japanese, and Korean, of their right to an interpreter, including
40 information regarding interpreter fees and costs and the right to

1 waiver of these fees and costs. This notice shall read substantially
2 as follows:

3 “If you are deaf or unable to speak English fluently, you are
4 entitled to an interpreter for your court proceeding. Interpreters are
5 available at no cost for all persons eligible to receive a fee waiver
6 with respect to the cost of court filings. Waiver of the fees and costs
7 of an interpreter may also be available for others who cannot afford
8 to pay for an interpreter.”

9 (2) Outreach shall be performed by the Judicial Council
10 concerning the availability of interpreters and the availability of
11 waiver for associated costs and fees for court filings.

12 SEC. 4. In coordination with its Court Interpreter Advisory
13 Panel, the Judicial Council shall evaluate the effectiveness of the
14 requirements imposed by this act and report thereon to the
15 Legislature no later than January 1, 2007.

