

AMENDED IN SENATE JANUARY 8, 2002

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 party who is not proficient in English in domestic violence proceedings, ~~as well as and for a party who appears in forma pauperis~~ *if the gross annual income of his or her immediate family is at or below 200% of the current official federal poverty line*, 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



1 transcription equipment provided pursuant to Section 54.8 of the
2 Civil Code.

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

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

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

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

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

38 (g) In the event that the appointed interpreter is not familiar
39 with the use of particular signs by the individual who is deaf or
40 hearing impaired or his or her particular variant of sign language,

1 the court or other appointing authority shall, in consultation with
2 the individual who is deaf or hearing impaired or his or her
3 representative, appoint an intermediary interpreter.

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

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

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

34 (j) Whenever a peace officer or any other person having a law
35 enforcement or prosecutorial function in any criminal or
36 quasi-criminal investigation or proceeding questions or otherwise
37 interviews an alleged victim or witness who demonstrates or
38 alleges deafness or hearing impairment, a good faith effort to
39 secure the services of an interpreter shall be made, without any
40 unnecessary delay unless either the individual who is deaf or

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

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

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

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

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

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

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

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

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

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

20 (2) The fees of interpreters for all other parties shall be paid
21 pursuant to Chapter 13 (commencing with Section 77000) of Title
22 8 of the Government Code. However, the fees of an interpreter
23 shall be 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 or in any proceeding which contains allegations of domestic
28 violence.

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

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

36 *(B) Any party for whom the gross annual income of his or her*
37 *immediate family, as calculated pursuant to Section 1382a of Title*
38 *42 of the United States Code, is at or below 200 percent of the*
39 *current official poverty line established by the United States*

1 *Director of the Office of Management and Budget, as annually*
2 *revised by the Secretary of Health and Human Services.*

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

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

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

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

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

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

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

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

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

33 68562. (a) The Judicial Council shall designate the
34 languages for which certification programs shall be established
35 under subdivision (b). The language designations shall be based on
36 (1) the courts' needs as determined by the language and interpreter
37 use and need studies under Section 68563, (2) the language needs
38 of non-English-speaking persons in the courts, and (3) other
39 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 and establish a list of recommended court interpreters pending final approval of one or more certification entities. Certification entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

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

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

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

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

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

(f) The Judicial Council shall establish guidelines for fees or shall set and charge fees for applications to take the court interpreter examinations, for renewal of certifications, for certification of interpreters on the list of recommended court interpreters, for maintaining interpreters on the recommended list until January 1, 1996, and for other functions and services provided under this article. All fees and other revenues received

1 by the Judicial Council under this article shall be transferred
2 promptly to the Controller, and shall be placed in the Court
3 Interpreters' Fund, which is hereby created, the moneys in which
4 shall be available to carry out the purposes of this article upon
5 appropriation by the Legislature.

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

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

35 (i) The Judicial Council shall conduct a public education and
36 notification program regarding this section and Sections 750 to
37 755, inclusive, of the Evidence Code, to assure a high degree of
38 publicity with respect to these provisions. This public education
39 program shall include, but is not limited to, the following:

(1) Each court and family law facilitator's office shall post in a conspicuous place a notice, 8.5 by 11 inches or larger, advising parties in multiple languages, including, but not limited to, English, Spanish, Tagalog, Arabic, Cantonese, Vietnamese, Japanese, and Korean, of their right to an interpreter, including information regarding interpreter fees and costs and the right to waiver of these fees and costs. This notice shall read substantially as follows:

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

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

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