



EVIDENCE CODE - EVID

DIVISION 6. WITNESSES [700 - 795] (*Division 6 enacted by Stats. 1965, Ch. 299.*)

CHAPTER 4. Interpreters and Translators [750 - 757] (*Chapter 4 enacted by Stats. 1965, Ch. 299.*)

754. (a) As used in this section, "individual who is deaf or hard of hearing" means an individual with a hearing loss so great as to prevent his or her understanding language spoken in a normal tone, but does not include an individual who is hard of hearing provided with, and able to fully participate in the proceedings through the use of, an assistive listening system or computer-aided transcription equipment provided pursuant to Section 54.8 of the Civil Code.

(b) In a civil or criminal action, including an action involving a traffic or other infraction, a small claims court proceeding, a juvenile court proceeding, a family court proceeding or service, or a proceeding to determine the mental competency of a person, in a court-ordered or court-provided alternative dispute resolution, including mediation and arbitration, or in an administrative hearing, where a party or witness is an individual who is deaf or hard of hearing and the individual who is deaf or hard of hearing is present and participating, the proceeding shall be interpreted in a language that the individual who is deaf or hard of hearing 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 purposes of this section, "interpreter" includes an oral interpreter, a sign language interpreter, or a deaf-blind interpreter, depending upon the needs of the individual who is deaf or hard of hearing.

(e) For purposes of this section, "intermediary interpreter" means an individual who is deaf or hard of hearing, 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 other foreign languages by acting as an intermediary between the individual who is deaf or hard of hearing and the qualified interpreter.

(f) For purposes of this section, "qualified interpreter" means an interpreter who has been certified 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 hard of hearing.

(g) If the appointed interpreter is not familiar with the use of particular signs by the individual who is deaf or hard of hearing or his or her particular variant of sign language, the court or other appointing authority shall, in consultation with the individual who is deaf or hard of hearing or his or her representative, appoint an intermediary interpreter.

(h) (1) Before July 1, 1992, the Judicial Council shall conduct a study to establish the guidelines pursuant to which it shall determine which testing organizations, agencies, or educational institutions will be approved to administer tests for certification of court interpreters for individuals who are deaf or hard of hearing. It is the intent of the Legislature that the study obtain the widest possible input from the public, including, but not limited to, educational institutions, the judiciary, linguists, members of the State Bar of California, court interpreters, members of professional interpreting organizations, and members of the deaf and hard of hearing communities. After obtaining public comment and completing its study, the Judicial Council shall publish these guidelines. By January 1, 1997, the Judicial Council shall approve one or more entities to administer testing for court interpreters for individuals who are deaf or hard of hearing. Testing entities may include educational institutions, testing organizations, joint powers agencies, or public agencies.

(2) Commencing July 1, 1997, court interpreters for individuals who are deaf or hard of hearing shall meet the qualifications specified in subdivision (f).

(i) Persons appointed to serve as interpreters under this section shall be paid, in addition to actual travel costs, the prevailing rate paid to persons employed by the court to provide other interpreter services unless such service is considered to be a part of the person's regular duties as an employee of the state, county, or other political subdivision of the state. Except as provided in subdivision (j), payment of the interpreter's fee shall be a charge against the court. Payment of the interpreter's fee in administrative proceedings shall be a charge against the appointing board or authority.

(j) Whenever a peace officer or any other person having a law enforcement or prosecutorial function in a criminal or quasi-criminal investigation or non-court proceeding questions or otherwise interviews an alleged victim or witness who demonstrates or alleges deafness or hearing loss, a good faith effort to secure the services of an interpreter shall be made without any unnecessary delay, unless either the individual who is deaf or hard of hearing affirmatively indicates that he or she does not need or cannot use an interpreter, or an interpreter is not otherwise required by Title II of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder. Payment of the interpreter's fee shall be a charge against the county, or other political subdivision of the state, in which the action is pending.

(k) A statement, written or oral, made by an individual who the court finds is deaf or hard of hearing in reply to a question of a peace officer, or any other person having a law enforcement or prosecutorial function in a criminal or quasi-criminal investigation or proceeding, shall not be used against that individual who is deaf or hard of hearing unless the question was accurately interpreted and the statement was made knowingly, voluntarily, and intelligently and was accurately interpreted, or the court finds that either the individual could not have used an interpreter or an interpreter was not otherwise required by Title II of the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted thereunder and that the statement was made knowingly, voluntarily, and intelligently.

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

(m) Subdivisions (j) and (k) shall not be deemed to supersede the requirement of subdivision (b) for use of a qualified interpreter for an individual who is deaf or hard of hearing participating as a party or witness in a trial or hearing.

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

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

(Amended by Stats. 2017, Ch. 561, Sec. 56. (AB 1516) Effective January 1, 2018.)