

2024 Regular Session

SENATE BILL NO. 103

BY SENATOR DUPLESSIS (On Recommendation of the Louisiana State Law Institute)

COURTS. Provides for the appointment of interpreters in court proceedings. (8/1/24)

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AN ACT

To amend and reenact Code of Civil Procedure Art. 192.2, Code of Criminal Procedure Art. 25.1 and 433(A) and (C), and Code of Evidence Art. 604, and to enact Code of Evidence Art. 604.1, relative to the appointment of interpreters in court proceedings; to provide for the appointment of interpreters in civil proceedings; to provide for the appointment of interpreters in criminal proceedings; to provide for persons permitted to be present at grand jury sessions; to provide for the qualifications of court-appointed interpreters; to provide for recordation and retention of interpreted communications; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Art. 192.2 is hereby amended and reenacted to read as follows:

Art. 192.2. Appointment of interpreter for non-English-speaking persons

A. If a non-English-speaking person who is a ~~principal party in interest~~ or a witness in a proceeding before the court has requested **that the court appoint** an interpreter **for the proceeding**, a judge shall appoint, ~~after consultation with the non-English-speaking person or his attorney, a competent interpreter to interpret or~~

1 to translate the proceedings to him and to interpret or translate his testimony **an**
 2 **interpreter in accordance with the Code of Evidence and the Rules of the**
 3 **Louisiana Supreme Court.**

4 B. Notwithstanding any other provision of law to the contrary, the court shall
 5 order payment to the **court-appointed** interpreter for his services at a fixed
 6 reasonable amount, and that amount shall be paid out of the appropriate court fund.

7 C. In a proceeding alleging abuse ~~under~~ **in accordance with** R.S. 46:2134 et
 8 seq., an interpreter, if necessary, shall be appointed prior to a rule to show cause
 9 hearing.

10 Section 2. Code of Criminal Procedure Arts. 25.1 and 433(A) and (C) are hereby
 11 amended and reenacted to read as follows:

12 Art. 25.1. Appointment of interpreter ~~for non-English-speaking persons~~

13 A. ~~If a non-English-speaking person who is a principal party in interest or a~~
 14 ~~witness in a proceeding before the court has requested an interpreter, a judge shall~~
 15 ~~appoint, after consultation with the non-English-speaking person or his attorney, a~~
 16 ~~competent interpreter to interpret or to translate the proceedings to him and to~~
 17 ~~interpret or translate his testimony. **The court shall appoint an interpreter in**~~
 18 **accordance with the Code of Evidence and the Rules of the Louisiana Supreme**
 19 **Court for any person who is a party or witness upon a determination that the**
 20 **person is a limited English proficient or deaf individual.**

21 B. ~~The court shall order reimbursement to the interpreter for his services at~~
 22 ~~a fixed reasonable amount. **The cost of providing a qualified court interpreter**~~
 23 **shall be paid out of the appropriate court fund.**

24 Comments – 2024

25 Rules regulating the use of interpreters in court proceedings and court
 26 operations are set forth in Part G, Section 14 of the Rules of the Louisiana Supreme
 27 Court and in Code of Evidence Articles 604 and 604.1.

28 * * *

29 Art. 433. Persons present during grand jury sessions

30 A.(1) Only the following persons may be present at the sessions of the grand

1 jury:

2 (a) The district attorney and assistant district attorneys or any one or more of
3 them;

4 (b) The attorney general and assistant attorneys general or any one or more
5 of them;

6 (c) The witness under examination;

7 (d) A person sworn to record the proceedings of and the testimony given
8 before the grand jury; ~~and~~

9 (e) An interpreter sworn to translate the testimony of a witness who is ~~unable~~
10 ~~to speak the~~ **a limited** English language **proficient or deaf individual**.

11 (2) An attorney for a target of the grand jury's investigation may be present
12 during the testimony of ~~said~~ **the** target. The attorney shall be prohibited from
13 objecting, addressing, or arguing before the grand jury; however, **the attorney he**
14 may consult with his client at ~~anytime~~ **any time**. The court shall remove ~~such~~ **the**
15 attorney for a violation of these conditions. If a witness becomes a target because of
16 his testimony, the legal advisor to the grand jury shall inform ~~him~~ **the witness** of his
17 right to counsel and cease questioning until ~~such~~ **the** witness has obtained counsel
18 or voluntarily and intelligently waived his right to counsel. Any evidence or
19 testimony obtained under the provisions of this Subparagraph from a witness who
20 later becomes a target shall not be admissible in a proceeding against him.

21 * * *

22 C. A person who is intentionally present at a meeting of the grand jury,
23 except as authorized by Paragraph A of this ~~article~~ **Article**, shall be in constructive
24 contempt of court.

25 Section 3. Code of Evidence Art. 604 is hereby amended and reenacted and Code of
26 Evidence Art. 604.1 is hereby enacted to read as follows:

27 Art. 604. Interpreters

28 An interpreter is subject to the provisions of this Code **and the Rules of the**
29 **Louisiana Supreme Court** relating to qualification as ~~an expert~~ **a court-appointed**

1 interpreter and the administration of an oath or affirmation that ~~he~~ the interpreter
 2 will make a true translation or interpretation.

3 Comments – 2024

4 The amendments to this Article make clear that the regulation and use of interpreters
 5 in court proceedings are set forth in the Rules of the Louisiana Supreme Court. The
 6 amendments also clarify that this Article applies to interpreters who are appointed by the
 7 court as officers of the court, as distinguished from interpreters who are retained by a party
 8 for the party's own purposes. In accordance with the Rules of the Louisiana Supreme Court,
 9 the amendment also observes the distinction between interpretation and translation. An
 10 interpretation involves hearing information spoken in one language and orally relaying the
 11 information to another in a manner that preserves the language's meaning. A translation
 12 consists of taking information that has been written in one language and conveying it in
 13 writing in another language while preserving the language's meaning.

14 Art. 604.1. Qualifications of interpreters; interpretations

15 A. If a party objects to the qualifications of any court-appointed
 16 interpreter, the party or the party's attorney shall have the right to conduct a
 17 voir dire examination of the interpreter.

18 B. If a qualified interpreter is not available for a court proceeding, upon
 19 the consent of all parties, the court may appoint a person who the court and
 20 parties agree will be able to accurately interpret the proceeding in a fair and
 21 impartial manner. Before giving consent, the party or the party's attorney shall
 22 have the right to conduct a voir dire examination of the interpreter.

23 C. Any party may object to the interpretation or translation of an
 24 interpreter.

25 D. In all court proceedings in a court of record, interpreted
 26 communications with the court shall be recorded in an audio or audiovisual
 27 format. The recordings shall be retained by the court.

28 E. Nothing in this Article prevents any party from having its own
 29 interpreter at any proceeding for the party's own purposes.

30 Comments – 2024

31 This Article is new and sets forth the procedure for objecting to the qualifications of
 32 a court-appointed interpreter and selecting an interpreter when a qualified interpreter is not
 33 available. This Article also provides for the recordation and retention of interpreted
 34 communications in all proceedings in a court of record and permits a party to have its own
 35 interpreter present at any proceeding for the party's own purposes.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Hanna Gettys.

DIGEST

SB 103Reengrossed

2024 Regular Session

Duplessis

Present law (C.C.P. Art. 192.2) provides for the appointment of a competent interpreter to interpret or translate court proceedings and the testimony of a non-English-speaking party or witness upon request.

Proposed law requires the appointment of an interpreter under present law to be made in accordance with the Code of Evidence and the Rules of the Louisiana Supreme Court and makes technical corrections.

Present law (C.Cr.P. Art. 25.1) provides for the appointment of a competent interpreter to interpret or translate court proceedings and the testimony of a non-English-speaking party or witness upon request.

Proposed law changes present law to require the appointment of an interpreter in accordance with the Code of Evidence and the Rules of the Supreme Court when a party is a limited English proficient or deaf individual.

Proposed law provides that the cost of the court interpreter is paid out of the appropriate court fund.

Present law (C.Cr.P. Art. 433) sets forth the persons who are permitted to be present at grand jury sessions, including an interpreter translating the testimony of a witness who is unable to speak English.

Proposed law changes present law to use consistent terminology, expands its application to deaf individuals, and makes technical corrections.

Present law (C.E. Art. 604) provides that interpreters are subject to the provisions of the Code of Evidence relating to qualification as an expert.

Proposed law changes present law to subject interpreters to the Rules of the Louisiana Supreme Court, removes the reference to experts, and recognizes the distinction between interpretations and translations.

Proposed law provides for qualifications of court-appointed interpreters, voir dire examinations, exceptions and objections, and recordation and retention of interpreted communications.

Effective August 1, 2024.

(Amends C.C.P. Art. 192.2, C.Cr.P. Arts. 25.1 and 433(A) and (C), and C.E. Art. 604; adds C.E. Art. 604.1)

Summary of Amendments Adopted by SenateSenate Floor Amendments to engrossed bill

1. Clarifies that the cost is out of the appropriate court fund.