

Introduced: 2/16/88
Referred: State Affairs and
Judiciary

5-1510L

1 IN THE SENATE

BY DUNCAN

2

SENATE BILL NO. 458

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the use of interpreters in crimi-
7 nal proceedings and in official proceedings of state
8 agencies; and amending Rule 604 of the Alaska Rules
9 of Evidence."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 12.80 is amended by adding a new section to read:

12 Sec. 12.80.060. RIGHT TO AN INTERPRETER. (a) A person who
13 cannot readily understand or communicate the spoken English language
14 who is charged with or convicted of a crime has a right to the servi-
15 ces of a qualified interpreter to assist

16 (1) in the person's defense throughout proceedings under
17 this title; and

18 (2) in the completion of documents required by or related
19 to proceedings under this title.

20 (b) When a person who is charged with or convicted of a crime
21 represents to a court an inability to understand or communicate the
22 spoken English language, or to read and understand documents that the
23 person is required to sign, in the absence of a waiver provided by the
24 person, the court shall appoint a qualified interpreter to assist the
25 person throughout the proceedings.

26 (c) When a witness in a proceeding under this title does not
27 understand and speak the English language, the court shall appoint a
28 qualified interpreter to interpret for the witness.

29 (d) The court may inquire into the qualifications of a person

1 who is to serve as an interpreter and make a preliminary determination
2 that the interpreter is able, in the proceeding, to interpret accu-
3 rately all communication to and from the person or witness who re-
4 quires the interpreter's services. The determination must be based on
5 the interpreter's

6 (1) education, certification, and experience in interpret-
7 ing in similar proceedings;

8 (2) understanding of the basic vocabulary of the languages
9 for which interpretation is required;

10 (3) understanding of the proceedings in which the inter-
11 preter is to participate; and

12 (4) impartiality.

13 (e) In the preliminary determination under (d) of this section,
14 a party or the party's representative may question the interpreter
15 about the interpreter's qualifications and impartiality.

16 (f) A person may not be appointed as an interpreter under this
17 section if the person

18 (1) is related to the person accused or convicted of the
19 crime;

20 (2) is an employee of an agency that is a party in the
21 criminal proceeding;

22 (3) would serve both by appointment under (b) of this sec-
23 tion and as an interpreter sworn under (c) of this section.

24 (g) A qualified interpreter appointed by the court under this
25 section shall, before commencing upon the duties of an interpreter,
26 take an oath that a true interpretation will be made to the person
27 being examined of all the proceedings in a language that the person
28 understands, and that the interpreter will repeat the statements of
29 the person being examined to the court conducting the proceedings in

1 the English language, to the best of the interpreter's skill and
2 judgment.

3 (h) The person accused of a crime may waive the right granted
4 under (a) of this section only if

5 (1) the court obtains a written waiver from the person;

6 (2) counsel, if any, consents; and

7 (3) the court determines that the waiver has been made
8 knowingly, voluntarily, and intelligently.

9 (i) An interpreter appointed by the court under this section
10 shall be adequately compensated for the services that the interpreter
11 performs and shall be reimbursed for standby time and actual trav-
12 el-related expenses. If appointed by the court under (b) of this
13 section, the cost of providing the interpreter shall be borne by the
14 state or, if the prosecution is commenced by a municipality, by the
15 municipal government. If appointed under (c) of this section, the
16 cost of providing the interpreter shall be borne by the party offering
17 the witness.

18 (j) A qualified interpreter may not, without the written consent
19 of the parties to the communication, be examined about

20 (1) any communication the interpreter interprets under
21 circumstances in which the communication is privileged; or

22 (2) any information the interpreter obtains while inter-
23 preting pertaining to any proceeding then pending.

24 (k) In this section, "qualified interpreter" means a person not
25 disqualified by (f) of this section who is able readily to interpret
26 spoken and translate written English to and for the person charged
27 with the crime and to interpret or translate statements by the person
28 into English.

29 * Sec. 2. AS 44.99 is amended by adding a new section to read:

1 Sec. 44.99.020. RIGHT TO AN INTERPRETER. (a) A person who
2 cannot readily understand or communicate the spoken English language
3 has a right to the services of a qualified interpreter to assist the
4 person throughout an official proceeding and to complete documents
5 required by or related to that proceeding.

6 (b) When a person who is a party in an official proceeding
7 represents to the presiding officer at an official proceeding an
8 inability to understand or communicate the spoken English language, or
9 to read and understand a document that the person is required to sign,
10 in the absence of a waiver provided by the person, the presiding
11 officer at the official proceeding shall appoint a qualified inter-
12 preter to assist the person throughout that proceeding.

13 (c) When a witness in an official proceeding does not understand
14 and speak the English language, the presiding officer at that proceed-
15 ing shall appoint a qualified interpreter to interpret for the wit-
16 ness. If the proceeding is not under oath, the presiding officer
17 shall allow a qualified interpreter to interpret for the witness.

18 (d) The presiding officer at an official proceeding may inquire
19 into the qualifications of a person who is to serve as an interpreter
20 and make a preliminary determination that the interpreter is able, in
21 the proceeding, to interpret accurately all communication to and from
22 the person or witness who requires the interpreter's services. The
23 determination must be based on the interpreter's

24 (1) education, certification, and experience in interpret-
25 ing in similar proceedings;

26 (2) understanding of the basic vocabulary of the languages
27 for which interpretation is required;

28 (3) understanding of the proceeding in which the inter-
29 preter is to participate; and

1 (4) impartiality.

2 (e) In the preliminary determination under (d) of this section,
3 a party or the party's representative may question the interpreter
4 about the interpreter's qualifications and impartiality.

5 (f) A person may not serve as an interpreter under this section
6 if the person

7 (1) is related to a party in the official proceeding;

8 (2) is an employee of an agency that is a party in the
9 proceeding;

10 (3) would serve both by appointment under (b) of this sec-
11 tion and as an interpreter sworn or allowed to serve under (c) of this
12 section.

13 (g) If the official proceeding is conducted under oath, a qual-
14 ified interpreter appointed under this section shall, before commenc-
15 ing upon the duties of an interpreter, take an oath that a true inter-
16 pretation will be made to the person being examined of all the offi-
17 cial proceedings in a language that the person understands, and that
18 the interpreter will repeat the statements of the person being ex-
19 amined to the persons conducting and participating in the proceeding
20 in the English language, to the best of the interpreter's skill and
21 judgment.

22 (h) A person may waive the right given in (a) of this section
23 only if

24 (1) the person executes a written waiver;

25 (2) counsel, if any, consents; and

26 (3) the presiding officer at the official proceeding deter-
27 mines that the waiver has been made knowingly, voluntarily, and intel-
28 ligently.

29 (i) An interpreter appointed or allowed to serve under this

1 section shall be adequately compensated for the services that the
2 interpreter performs and shall be reimbursed for standby time and
3 actual travel-related expenses. If appointed under (b) of this sec-
4 tion, the cost of providing the interpreter shall be borne by the
5 state. If appointed or allowed to serve under (c) of this section,
6 the cost of providing the interpreter shall be borne by the party
7 offering the witness.

8 (j) In this section

9 (1) "official proceeding" means a proceeding brought by or
10 against a state agency and heard before an administrative body or
11 official, including a proceeding under the Administrative Procedure
12 Act;

13 (2) "qualified interpreter" means a person not disqualified
14 by (f) of this section who is able readily to interpret spoken and
15 translate written English to and for the person charged with the crime
16 and to interpret or translate statements by the person into English;

17 (3) "state agency" means a state administrative body,
18 board, commission, committee, subcommittee, authority, council, agen-
19 cy, or other organization, including subordinate units of these
20 groups, supported in whole or in part by state money or authorized to
21 spend state money.

22 * Sec. 3. AS 12.80.060(a), 12.80.060(g), and 12.80.060(k), added by
23 sec. 1 of this Act, have the effect of amending Rule 604 of the Alaska
24 Rules of Evidence by substituting specific requirements for qualification
25 as an interpreter in place of qualification of the interpreter as an ex-
26 pert, and by setting out specific requirements of the oath that a qualified
27 interpreter must take before commencing the duties of an interpreter in a
28 criminal proceeding.