



Pacific Law Journal Review of Selected Nevada Legislative

Volume 1979 | Issue 1

Article 22

1-1-1979

Criminal Procedure; Appointment of Interpreters

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Recommended Citation

Lorne Malkiewich, *Criminal Procedure; Appointment of Interpreters*, 1979 U. PAC. L. REV. (1979).
Available at: <https://scholarlycommons.pacific.edu/nlr/vol1979/iss1/22>

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4. See Harley v. Board of Public Instruction, 103 So.2d 111, 112 (Fla. Sup. Ct. 1958) (finding an act to be a "special statutory proceeding," and therefore an exception to the Florida Rules of Civil Procedure, because the act is a "new, specific and complete remedy" which "fully covers the subject matter of ... [teacher tenure] ..."). See generally C.J.S. Special Proceedings § 958, 1093-96.
5. See Gabrielson v. State 408 P.2d 1020, 1022-23 (Wash. Sup. Ct. 1965). Cf., City of Los Angeles v. Eighth Judicial District of Nevada, 58 Nev. 1, 13, 67 P.2d 1019, 1023 (1937) (dicta) ("the word 'corporation' is never construed to include municipal corporation"). See also In re Scott, 53 Nev. 24, 292 P.291 (1930).

CRIMINAL PROCEDURE; APPOINTMENT OF INTERPRETERS

Adds to NRS Chapters 50, 213, 233B, 391, 396, 422, 463

Amends NRS 50.045, 50.050, 171.1536, 213.010, 213.107, 391.311, 615.200

Repeals NRS 171.1535

SB 143 (Committee on Judiciary); STATS 1979, Ch 382

Chapter 382 requires that interpreters be appointed at public expense for handicapped persons in various judicial and administrative proceedings. A "handicapped person" is a person who cannot readily communicate because of a physical impairment or disability.¹ An "interpreter" is a person who can communicate with and translate for a handicapped person.

Interpreters must be appointed at public expense for a handicapped person who is: (a) a party or a witness in a criminal proceeding;³ (b) arrested;⁴ (c) an applicant or a witness in a clemency hearing;⁵ (d) a prisoner, parolee, or witness at a parole hearing;⁶ (e) a witness at a contested administrative proceeding;⁷ (f) a school district employee or a witness at a demotion, dismissal, or reemployment hearing;⁸ (g) a member of the university community or a witness at a university disciplinary hearing;⁹ (h) the subject of a welfare hearing or a witness at the hearing;¹⁰ or (i) the subject of a hearing on licensing and control of gaming, or a witness at the hearing.¹¹ Interpreters appointed in other civil proceedings¹² shall not be charged as a public expense, but may be taxed as costs.¹³

The person presiding over the proceeding must appoint the interpreter.¹⁴ Whenever possible, the handicapped person is entitled to choose or approve the interpreter.¹⁵ Unless otherwise agreed by the parties, the interpreter must not be

biased, interested in the outcome of the proceeding, nor related to the handicapped person.¹⁶ The interpreter must swear to provide accurate interpretation.¹⁷ While performing his duties, the interpreter shares his rights and privileges of the handicapped person, such as access to documents.¹⁸ If the interpreter is not effectively or accurately communicating, the official presiding over the proceedings must appoint a new interpreter.¹⁹ To facilitate appointment, the Bureau of Vocational Rehabilitation may maintain a list of interpreters, available upon request and without charge.²⁰

Previously, arresting officers were required to appoint an interpreter for a handicapped prisoner.²¹ Chapter 382 requires the officer in charge of the facility to which the handicapped person has been brought to appoint the interpreter.²² As handicapped persons must be provided an interpreter before interrogation,²³ an arresting officer will not be allowed to interrogate the handicapped person at the scene of the arrest.

Lorne Malkiewich

FOOTNOTES

1. NRS 50.050(1)(a) (as amended by 1979 Nev. Stats. ch. 382 (hereinafter "Ch. 382") §6). This bill does not affect non-English-speaking parties and witnesses; only the physically handicapped.
2. NRS 50.050(1)(b) (as amended by Ch. 382 §6).
3. Ch. 382 §2 (adding to NRS Ch. 50).
4. Id. §7 (amending NRS 171.1536).
5. Id. §9 (adding to NRS Ch. 213).
6. Id. §10 (adding to NRS Ch. 213).
7. Id. §13 (adding to NRS Ch. 233B).
8. Id. §14 (Adding to NRS Ch. 391).
9. Id. §16 (adding to NRS Ch. 396).
10. Id. §17 (adding to NRS Ch. 422).
11. Id. §18 (adding to NRS Ch. 463).
12. See NRCP 43(f), allowing court appointment of interpreters.
13. Ch. 382 §6 (amending NRS 50.050(3)). See also Jara v. Municipal Court, 21 Cal. 3d 181, 578 P.2d 94, 145 Cal.Rptr. 847 (1978), cert. denied, _____ U.S.

- _____, 99 S.Ct. 833, 59 L. ED. 2d 32 (1979).
14. Ch. 382 §§6,7,9,10,13,14,16,17,18 (amending NRS 50.050(2), 171.1536, adding to NRS Chs. 213, 213, 233B, 391, 396, 422, 463).
 15. Id. §3 ¶3 (adding to NRS Ch. 50).
 16. Id. §3 ¶2 (adding to NRS Ch. 50).
 17. Id. §4 ¶1 (adding to NRS Ch. 50).
 18. Id. §4 ¶2 (adding to NRS Ch. 50).
 19. Id. §3 ¶1 (adding to NRS Ch. 50).
 20. Id. §19 (adding NRS 615.200(6)).
 21. 1975 Nev. Stats. ch. 243 §7, at 309 (NRS 171.1536) (amended by Ch. 382 §7).
 22. Ch. 382 §7 (amending NRS 171.1536).
 23. Id.

SEE GENERALLY:

- 1) Annot., 80 A.L.R. 2d 1084 (1961) (criminal trial for deaf, mute, or blind person).
- 2) Note, Constitutional Law: Translators: Mandatory for Due Process, 2 CONN. L. REV. 163 (1969).

CRIMINAL PROCEDURE; POST ARREST PROCEDURES

Amends NRS 171.178, 176.215, 213.151
 SB 154 (Neal); STATS 1979, Ch 589
 AB 459 (Barengo and Hayes); STATS 1979, Ch 222

Chapters 222 and 589 amend Nevada's criminal procedure law by allowing release of the arrested person either for lack of probable cause or for unnecessary delay between arrest and hearing before a magistrate.

Lack of Probable Cause

Chapter 222 amends NRS 171.178 to allow a peace officer to immediately release a person arrested without a warrant when the officer determines there are insufficient grounds for filing a criminal complaint.¹ Where a person is released for insufficient grounds, the record of arrest must also show a record of release.²