

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 438

Short Title: Interpreting Services in the Courts. (Public)

Sponsors: Senator Clodfelter (Primary Sponsor).

Referred to: Judiciary II.

March 27, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE EQUAL ACCESS TO COURT SERVICES AND FULLY FUND
3 INTERPRETER NEEDS IN THE COURTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 28 of Chapter 7A of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 7A-314A. Foreign language interpreting and translating services.**

8 (a) Notwithstanding any other provision of law, if a party or witness in the General
9 Court of Justice does not speak or understand the English language, the cost of interpreting or
10 translating services for the party or witness is payable from funds appropriated to the Judicial
11 Department. With regard to a party for which the Judicial Department is bearing the costs of
12 representation, or a witness for such a party, the Administrative Office of the Courts and the
13 Office of Indigent Defense Services may enter into a memorandum of understanding for the
14 payment of interpreting and translating services. The appointment and payment of interpreters
15 and translators under this section shall be made in accordance with G.S. 7A-343(9c).

16 (b) If a party or witness elects to use an interpreter or translator of his or her own choice
17 in lieu of an interpreter or translator provided by the Administrative Office of the Courts under
18 this section, the party or witness shall bear the cost of the interpreter or translator.

19 (c) Except in cases in which the Judicial Department is bearing the costs of
20 representation, nothing in this section shall be construed to obligate the Administrative Office
21 of the Courts to bear the cost of interpreting or translating services for noncourt services and
22 activities, such as discovery, trial, preparation, and attorney-client meetings.

23 (d) The court may order a party or witness to bear the cost of interpreting or translating
24 services when the party or witness was the person for whom the services were required and the
25 party or witness, without good cause, failed to appear."

26 **SECTION 2.** G.S. 7A-343(9c) reads as rewritten:

27 "(9c) Prescribe policies and procedures for the appointment and payment of
28 foreign language ~~interpreters~~ interpreters in those cases specified in
29 G.S. 7A-314A. These policies and procedures shall be applied uniformly
30 throughout the General Court of Justice. After consultation with the Joint
31 Legislative Commission on Governmental Operations, the Director may also
32 convert contractual foreign language interpreter positions to permanent State
33 positions when the Director determines that it is more cost-effective to do
34 so."

35 **SECTION 3.** G.S. 7A-305(d) reads as rewritten:



1 "(d) The following expenses, when incurred, are assessable or recoverable, as the case
2 may be. The expenses set forth in this subsection are complete and exclusive and constitute a
3 limit on the trial court's discretion to tax costs pursuant to G.S. 6-20:

- 4 (1) Witness fees, as provided by law.
- 5 (2) Jail fees, as provided by law.
- 6 (3) Counsel fees, as provided by law.
- 7 (4) Expense of service of process by certified mail and by publication.
- 8 (5) Costs on appeal to the superior court, or to the appellate division, as the case
9 may be, of the original transcript of testimony, if any, insofar as essential to
10 the appeal.
- 11 (6) Fees for personal service and civil process and other sheriff's fees, as
12 provided by law. Fees for personal service by a private process server may
13 be recoverable in an amount equal to the actual cost of such service or fifty
14 dollars (\$50.00), whichever is less, unless the court finds that due to
15 difficulty of service a greater amount is appropriate.
- 16 (7) Fees of mediators appointed by the court, mediators agreed upon by the
17 parties, guardians ad litem, referees, receivers, commissioners, surveyors,
18 arbitrators, appraisers, and other similar court appointees, as provided by
19 law. The fee of such appointees shall include reasonable reimbursement for
20 stenographic assistance, when necessary.
- 21 (8) Fees of ~~interpreters, when authorized and approved by the court.~~ interpreters
22 not paid by the Administrative Office of the Courts under G.S. 7A-314A.
- 23 (9) Premiums for surety bonds for prosecution, as authorized by G.S. 1-109.
- 24 (10) Reasonable and necessary expenses for stenographic and videographic
25 assistance directly related to the taking of depositions and for the cost of
26 deposition transcripts.
- 27 (11) Reasonable and necessary fees of expert witnesses solely for actual time
28 spent providing testimony at trial, deposition, or other proceedings.

29 Nothing in this subsection or in G.S. 6-20 shall be construed to limit the trial court's authority
30 to award fees and expenses in connection with pretrial discovery matters as provided in Rule
31 26(b) or Rule 37 of the Rules of Civil Procedure, and no award of costs made pursuant to this
32 section or pursuant to G.S. 6-20 shall reverse or modify any such orders entered in connection
33 with pretrial discovery."

34 **SECTION 4.** This act becomes effective July 1, 2013.