

SENATE BILL NO. 103

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

1 AN ACT

2 To amend and reenact Code of Civil Procedure Art. 192.2, Code of Criminal Procedure Art.
3 25.1 and 433(A) and (C), and Code of Evidence Art. 604, and to enact Code of
4 Evidence Art. 604.1, relative to the appointment of interpreters in court proceedings;
5 to provide for the appointment of interpreters in civil proceedings; to provide for the
6 appointment of interpreters in criminal proceedings; to provide for persons permitted
7 to be present at grand jury sessions; to provide for the qualifications of
8 court-appointed interpreters; to provide for recordation and retention of interpreted
9 communications; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

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

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

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

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

27 Section 2. Code of Criminal Procedure Arts. 25.1 and 433(A) and (C) are hereby

1 amended and reenacted to read as follows:

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

3 A. ~~If a non-English-speaking person who is a principal party in interest or a~~
4 ~~witness in a proceeding before the court has requested an interpreter, a judge shall~~
5 ~~appoint, after consultation with the non-English-speaking person or his attorney, a~~
6 ~~competent interpreter to interpret or to translate the proceedings to him and to~~
7 ~~interpret or translate his testimony.~~ **The court shall appoint an interpreter in**
8 **accordance with the Code of Evidence and the Rules of the Louisiana Supreme**
9 **Court for any person who is a party or witness upon a determination that the**
10 **person is a limited English proficient or deaf individual.**

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

14 Comments – 2024

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

18 * * *

19 Art. 433. Persons present during grand jury sessions

20 A.(1) Only the following persons may be present at the sessions of the grand
21 jury:

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

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

26 (c) The witness under examination;

27 (d) A person sworn to record the proceedings of and the testimony given
28 before the grand jury; ~~and.~~

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

31 (2) An attorney for a target of the grand jury's investigation may be present

1 during the testimony of ~~said~~ **the** target. The attorney shall be prohibited from
 2 objecting, addressing, or arguing before the grand jury; however, **the attorney he**
 3 may consult with his client at ~~anytime~~ **any time**. The court shall remove ~~such~~ **the**
 4 attorney for a violation of these conditions. If a witness becomes a target because of
 5 his testimony, the legal advisor to the grand jury shall inform ~~him~~ **the witness** of his
 6 right to counsel and cease questioning until ~~such~~ **the** witness has obtained counsel
 7 or voluntarily and intelligently waived his right to counsel. Any evidence or
 8 testimony obtained under the provisions of this Subparagraph from a witness who
 9 later becomes a target shall not be admissible in a proceeding against him.

10 * * *

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

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

16 Art. 604. Interpreters

17 An interpreter is subject to the provisions of this Code **and the Rules of the**
 18 **Louisiana Supreme Court** relating to qualification as ~~an expert~~ **a court-appointed**
 19 **interpreter** and the administration of an oath or affirmation that ~~he~~ **the interpreter**
 20 will make a true translation **or interpretation**.

21 Comments – 2024

22 The amendments to this Article make clear that the regulation and use of interpreters
 23 in court proceedings are set forth in the Rules of the Louisiana Supreme Court. The
 24 amendments also clarify that this Article applies to interpreters who are appointed by the
 25 court as officers of the court, as distinguished from interpreters who are retained by a party
 26 for the party's own purposes. In accordance with the Rules of the Louisiana Supreme Court,
 27 the amendment also observes the distinction between interpretation and translation. An
 28 interpretation involves hearing information spoken in one language and orally relaying the
 29 information to another in a manner that preserves the language's meaning. A translation
 30 consists of taking information that has been written in one language and conveying it in
 31 writing in another language while preserving the language's meaning.

32 **Art. 604.1. Qualifications of interpreters; interpretations**

33 **A. If a party objects to the qualifications of any court-appointed**
 34 **interpreter, the party or the party's attorney shall have the right to conduct a**

1 voir dire examination of the interpreter.

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

7 C. Any party may object to the interpretation or translation of an
8 interpreter.

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

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

14 Comments – 2024

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 16

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

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AN ACT

To amend and reenact the introductory paragraph of Code of Evidence Art. 702(A) and (4), relative to expert testimony; to provide for a burden of proof; to provide with respect to expert opinions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The introductory paragraph of Code of Evidence Art. 702(A) and (4) are hereby amended and reenacted to read as follows:

Art. 702. Testimony by experts

A. A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if **the proponent demonstrates to the court that it is more likely than not that:**

* * *

(4) The ~~expert has reliably applied~~ **expert's opinion reflects a reliable application of** the principles and methods to the facts of the case.

* * *

Comments – 2024

This amendment does not change the law and is intended to align the language of this Article with the 2023 amendments to Rule 702 of the Federal Rules of Evidence.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 275

HOUSE BILL NO. 337

BY REPRESENTATIVES MCFARLAND, AMEDEE, BERAULT, BILLINGS, BUTLER, CARRIER, CARVER, COX, DAVIS, DEWITT, DICKERSON, EGAN, EMERSON, FIRMENT, MELERINE, OWEN, SCHAMERHORN, WILDER, AND WYBLE AND SENATORS BASS, CLOUD, EDMONDS, FESI, HENRY, MIGUEZ, SEABAUGH, STINE, AND WOMACK

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AN ACT

To amend and reenact R.S. 22:1269(B)(1) and (D), to enact R.S. 22:1269(B)(3) and (4), (E), and (F), and to repeal Code of Evidence Art. 411(D), relative to direct actions against an insurer; to provide for direct action against the insured; to provide for direct action against the insurer in limited circumstances; to provide relative to case captions and disclosures to jurors; to provide for intent; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1269(B)(1) and (D) are hereby amended and reenacted and R.S. 22:1269(B)(3) and (4), (E), and (F) are hereby enacted to read as follows:

§1269. Liability policy; insolvency or bankruptcy of insured and inability to effect service of citation or other process; direct action against insurer

* * *

B.(1) The injured person or, if deceased, the persons identified in Civil Code Arts. 2315.1 and 2315.2, ~~his survivors or heirs mentioned in Subsection A of this Section, at their option,~~ shall have a no right of direct action against the insurer unless at least one of the following applies: within the terms and limits of the policy; and, such action may be brought against the insurer alone, or against both the insured and insurer jointly and in solido, in the parish in which the accident or injury occurred or in the parish in which an action could be brought against either the

~~insured or the insurer under the general rules of venue prescribed by Code of Civil Procedure Art. 42 only; however, such action may be brought against the insurer alone only when at least one of the following applies:~~

(a) ~~The insured has been adjudged bankrupt by~~ files for bankruptcy in a court of competent jurisdiction or when proceedings to adjudge an insured bankrupt have been commenced before a court of competent jurisdiction.

(b) The insured is insolvent.

(c) ~~Service of citation or other process cannot be made on the insured~~ has been attempted without success or the insured defendant refuses to answer or otherwise defend the action within one hundred eighty days of service.

(d) When the cause of action is for damages as a result of an offense or quasi-offense between children and their parents or between married persons.

(e) When the insurer is an uninsured motorist carrier.

(f) The insured is deceased.

(g) When the insurer is defending the lawsuit under a reservation of rights, or the insurer denies coverage to the insured, but only for the purpose of establishing coverage.

* * *

(3) The filing of an action against the insured shall interrupt prescription as to all insurers whose policies provide coverage for the claims asserted in the action.

(4)(a) An insurer shall not be included in the caption of any action brought against the insurer pursuant to this Section. The action shall instead be captioned only against the insured defendant or other noninsurance defendants.

(b) A court shall not disclose the existence of insurance coverage to the jury or mention such coverage in the jury's presence unless required by Code of Evidence Article 411.

(c) A court may dismiss the action against any insured or other defendant if the action cannot proceed due to any of the circumstances in Paragraph (2) of this Subsection.

* * *

1 D. ~~It is also the intent of this Section that all liability policies within their~~
2 ~~terms and limits are executed for the benefit of all injured persons and their survivors~~
3 ~~or heirs to whom the insured is liable; and, that it is the purpose of all liability~~
4 ~~policies to give protection and coverage to all insureds, whether they are named~~
5 ~~insured or additional insureds under the omnibus clause, for any legal liability the~~
6 ~~insured may have as or for a tortfeasor within the terms and limits of the policy.~~

7 (1)(a) In those instances where direct action is not otherwise authorized by
8 law, at the time a judgment is to be entered, or a settlement is reached during the
9 pendency of litigation, a liability insurer may be joined on motion of any party as a
10 party defendant for the purposes of entering final judgment or enforcing the
11 settlement.

12 (b) The provisions of Subparagraph (a) of this Paragraph are subject to the
13 terms and limits of the policy and do not apply if the insurer timely denied coverage
14 or reserved rights under the provisions of Subsection E of this Section unless there
15 has been an adjudication in favor of coverage.

16 (c) Subject to the provisions of this Subsection, any judgment entered against
17 an insured shall also be rendered against any nonparty insurer that is joined post-
18 verdict pursuant to this Subsection. If a judgment is reversed or remanded on appeal,
19 the insurer's presence shall not be disclosed to the jury in a subsequent trial.

20 (2)(a) With the first responsive pleading filed on behalf of the insured
21 defendant, counsel for the insured defendant who is authorized by an insurer shall
22 certify to the plaintiff the name and address of any insurers for whom he is
23 authorized to confirm that they waive any further notice related to the cause of action
24 other than that provided to the counsel for the insured. The insurer is deemed to
25 have all notice provided to the counsel for the insured who has entered this waiver
26 unless it provides written notice to the parties instructing notice be additionally sent
27 to another counsel. If an insurer has waived notice of the cause of action pursuant
28 to this Subparagraph, then an order to join the defendant post-verdict may be issued
29 ex parte when filed.

1 (b) Notice of the commencement of a civil action may be provided by
2 plaintiff or its counsel to the nonparty insurer by service of the citation on the
3 nonparty insurer by any method of service on a defendant provided by law. Any
4 copy of a motion to join the insurer post-verdict transmitted pursuant to this
5 Subparagraph may be granted in chambers fifteen days following service pursuant
6 to this Subparagraph unless a contradictory hearing is requested prior to that date.

7 E. In addition to any other restriction provided by law, a liability insurer
8 denying coverage shall do the following:

9 (1) Within ninety days after the liability insurer makes a determination of the
10 existence of a coverage defense, but in no case later than thirty days before trial,
11 provide written notice of reservation of rights to assert a coverage defense to the
12 named insured by United States postal proof of mailing, registered or certified mail,
13 or other similar tracking method used or approved by the United State Postal Service
14 or commercial courier sent to the last known address of the insured or by hand
15 delivery.

16 (2) Within sixty days of the later of compliance with Paragraph (1) of this
17 Subsection and after receipt or waiver of notice pursuant to Paragraph (D)(2) of this
18 Section, but in no case later than thirty days before trial, the insured shall give notice
19 to all counsel of record in a cause of action against the insured that a reservation of
20 rights has been issued and also give notice to its named insurer in the same manner
21 as provided for in Paragraph (1) of this Subsection that either:

22 (a) The insurer refuses to defend the insured.

23 (b) The insurer provides independent counsel at the expense of the insurer.

24 F. The legislature finds that the purpose of all liability policies is to provide
25 protection and coverage to all insureds, whether the insured is a named insured or an
26 additional insured under the omnibus clause, for all legal liability the insured may
27 have within the terms and limits of the policy.

28 Section 2. Code of Evidence Art. 411(D) is hereby repealed.

1 Section 3. The Louisiana State Law Institute is hereby authorized and directed to
 2 change the reference in Code of Evidence Art. 411(B) from R.S. 22:1269(B)(1)(a) through
 3 (f) to R.S. 22:1269(B)(1)(a) through (g).

4 Section 4. Nothing in this Act shall prevent a plaintiff from resolving a claim of
 5 coverage against one insurer while preserving a claim against another insurer of the same
 6 defendant in the same cause of action, as contemplated by Gasquet vs. Commercial Union
 7 Insurance Company, 391 So. 2d 466 (La. 1981) and its progeny.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2024 Regular Session
HOUSE BILL NO. 819
BY REPRESENTATIVE VENTRELLA

ACT No. 729

1 AN ACT

2 To enact Code of Evidence Article 1105 and Code of Criminal Procedure Article 389,
3 relative to the burden of proof in certain proceedings; to provide for the burden of
4 proof when a claim of self-defense is raised in criminal or civil proceedings; to
5 provide relative to notice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Evidence Article 1105 is hereby enacted to read as follows:

8 Art. 1105. Burden of proof; civil proceedings

9 A. In any civil proceeding in which the defense of self-defense is raised, the
10 defendant shall have the burden to prove by a preponderance of the evidence that he
11 acted in self-defense.

12 B. For the purposes of this Article, if the defense of self-defense is raised in
13 a civil proceeding by an authorized person as defined in R.S. 9:2793.12, the burden
14 of proof shall be on the party asserting the action to prove by a preponderance of the
15 evidence that the injury, death, or loss complained of was not caused by a justified
16 use of force or self-defense by the authorized person.

17 Section 2. Code of Criminal Procedure Article 389 is hereby enacted to read as
18 follows:

19 Art. 389. Burden of proof; justification of self-defense raised; probable cause

20 A. In any criminal proceeding in which the justification of self-defense is
21 raised pursuant to R.S. 14:19 or 20, the state shall have the burden to prove beyond
22 a reasonable doubt that the defendant did not act in self-defense.

23 B. Any defendant intending to assert the justification of self-defense
24 pursuant to R.S. 14:19 or 20 shall provide written notice to the district attorney

1 within ten days after the state has moved for discovery under Article 724. Thereafter,
2 the court may, for good cause shown, allow a defendant to provide such notice at any
3 time before the commencement of the trial.

4 C. A peace officer shall consider evidence of self-defense in accordance with
5 R.S. 14:19 or 20 when determining if probable cause exists to conduct an arrest.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____