

THE COURTS

Title 225—RULES OF EVIDENCE

[225 PA. CODE ART. VI]

**Amendment of Rule 604 of the Rules of Evidence;
No. 566 Supreme Court Rules Doc.**

Order

Per Curiam

And Now, this 21st day of March, 2012, upon the recommendation of the Committee on Rules of Evidence; the proposal having been published for public comment at 39 Pa.B. 5722 (October 3, 2009) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 978 No. 2):

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 604 of the Pennsylvania Rules of Evidence is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective in thirty days.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE VI. WITNESSES

Rule 604. [Interpreters] Interpreter.

[An interpreter is subject to the provisions of Rule 702 (relating to qualification as an expert) and Rule 603 (relating to the administration of an oath or affirmation).]

An interpreter must be qualified and must give an oath or affirmation to make a true translation.

Comment

[This rule adopts the substance of F.R.E. 604; the only change is the explicit reference to Pa.Rs.E. 702 and 603, rather than the general reference to “the provisions of these rules” in F.R.E. 604.

The need for an interpreter whenever a witness’ natural mode of expression or the language of a document is not intelligible to the trier of fact is well settled. 3 Wigmore, *Evidence* § 911 (Chadbourn rev. 1970). Under Pa.R.E. 604, an interpreter is treated as an expert witness who must have the necessary skill to translate correctly and who must promise to do so by oath or affirmation.

Pa.R.E. 604 is consistent with those Pennsylvania statutes providing for the appointment of interpreters for the deaf. See 42 Pa.C.S.A. § 7103 (deaf party in a civil case); 2 Pa.C.S.A. 505.1 (deaf party in hearing before Commonwealth agency); 42 Pa.C.S.A. § 8701 (deaf defendant in criminal case); see also *Commonwealth v. Wallace*, 433 Pa. Super. 518, 641 A.2d 321 (1994) (applying § 8701). Under each of these statutes, an interpreter must be “qualified and trained to translate for or communicate with deaf persons” and must “swear or affirm that he will make a true interpretation to the deaf person and that he will repeat the statements of the deaf person to the best of his ability.”

There is little statutory authority for the appointment of interpreters, but the practice is well established. See Pa.R.Crim.P. 231(B) (authorizing presence of interpreter while investigating grand jury is in session if supervising judge determines necessary for presentation of evidence); 51 Pa.C.S.A. § 5507 (under regulations prescribed by governor, convening authority of military court may appoint interpreters). The decision whether to appoint an interpreter is within the discretion of the trial court. See *Commonwealth v. Pana*, 469 Pa. 43, 364 A.2d 895 (1976) (holding that it was an abuse of discretion to fail to appoint an interpreter for a criminal defendant who had difficulty in understanding and expressing himself in English).]

In 2006, legislation was enacted pertaining to the certification, appointment, and use of interpreters in judicial and administrative proceedings for persons having limited proficiency with the English language and persons who are deaf. See 42 Pa.C.S. §§ 4401—4438; 2 Pa.C.S. §§ 561—588. Pursuant to this legislation, the Administrative Office of the Pennsylvania Courts (“AOPC”) has implemented an interpreter program for judicial proceedings. See 204 Pa. Code §§ 221.101—407. Information on the court interpreter program and a roster of court interpreters may be obtained from the AOPC web site at www.pacourts.us/t/aopc/courtinterpreterprog.

Official Note: Adopted May 8, 1998, effective October 1, 1998; Comment revised March 29, 2001, effective April 1, 2001; amended March 21, 2012, effective April 20, 2012.

* * * * *

[Pa.B. Doc. No. 12-605. Filed for public inspection April 6, 2012, 9:00 a.m.]