

By: Senator(s) Harden

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2197

1 AN ACT TO PROVIDE FOR THE USE OF INTERPRETERS IN ALL COURTS
2 OF THE STATE; TO ENACT DEFINITIONS; TO PROVIDE THAT INTERPRETERS
3 MAY BE COMPENSATED OR VOLUNTEERS; TO REQUIRE INTERPRETERS TO TAKE
4 AN OATH; TO SPECIFY THE SITUATIONS IN WHICH AN INTERPRETER IS
5 NEEDED; TO SPECIFY THE SITUATIONS IN WHICH A RECORD SHALL BE MADE
6 OF INTERPRETED TESTIMONY; TO PROVIDE THAT ANY EXPENSE IN
7 COMPENSATING AN INTERPRETER CAN BE ASSESSED AS COSTS; TO AMEND
8 SECTION 99-17-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
9 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1. Definitions.** The following words and phrases
12 shall have the meanings ascribed to them unless the context
13 clearly requires otherwise:

14 (a) "Non-English speaker" means any party or witness
15 who cannot readily understand or communicate in spoken English and
16 who consequently cannot equally participate in or benefit from the
17 proceedings unless an interpreter is available to assist the
18 individual. The fact that a person for whom English is a second
19 language knows some English does not prohibit that individual from
20 being allowed to have an interpreter.

21 (b) "Interpreter" means any person authorized by a
22 court and competent to translate or interpret oral or written
23 communication in a foreign language during court proceedings.

24 (c) "Court proceedings" means a proceeding before any
25 court of this state or a grand jury hearing.

26 **SECTION 2.** (1) The Director of the Administrative Office of
27 Courts shall establish a program to facilitate the use of
28 interpreters in all courts of the State of Mississippi.

29 (2) (a) The Department of Education shall prescribe the
30 qualifications of and certify persons who may serve as certified

31 interpreters in all courts of the State of Mississippi in
32 bilingual proceedings.

33 (b) The director shall maintain a current master list
34 of all interpreters certified by the Department of Education and
35 shall report annually to the Supreme Court on the frequency of
36 requests for and the use and effectiveness of the interpreters.

37 (3) In all state court bilingual proceedings, the presiding
38 judicial officer, with the assistance of the director, shall
39 utilize the services of a certified interpreter to communicate
40 verbatim all spoken or written words when the necessity therefor
41 has been determined pursuant to Section 5 of Senate Bill No. 2197,
42 2005 Regular Session.

43 (4) All state courts shall maintain on file in the office of
44 the clerk of the court a list of all persons who have been
45 certified as interpreters by the Department of Education in
46 accordance with the certification program established pursuant to
47 this section.

48 **SECTION 3. Compensation.** The court may appoint either an
49 interpreter who is paid or a volunteer interpreter.

50 **SECTION 4. Oath, confidentiality and public comment.** (1)
51 Prior to providing any service to a non-English speaking person,
52 the interpreter shall subscribe to an oath that he or she shall
53 interpret all communications in an accurate manner to the best of
54 his or her skill and knowledge.

55 (2) The oath shall conform substantially to the following
56 form:

57 INTERPRETER'S OATH

58 "Do you solemnly swear or affirm that you will faithfully
59 interpret from (state the language) into English and from English
60 into (state the language) the proceedings before this court in an
61 accurate manner to the best of your skill and knowledge?"

62 (3) Interpreters shall not voluntarily disclose any
63 admission or communication that is declared to be confidential or

64 privileged under state law. Out-of-court disclosures made by a
65 non-English speaker communicating through an interpreter shall be
66 treated by the interpreter as confidential or privileged or both
67 unless the court orders the interpreter to disclose such
68 communications or the non-English speaker waives such
69 confidentiality or privilege.

70 (4) Interpreters shall not publicly discuss, report or offer
71 an opinion concerning a matter in which they are engaged, even
72 when that information is not privileged or required by law to be
73 confidential.

74 (5) The presence of an interpreter shall not affect the
75 privileged nature of any discussion.

76 **SECTION 5. Determination of need for an interpreter.** (1)

77 An interpreter is needed and a court interpreter shall be
78 appointed when the judge determines, after an examination of a
79 party or witness, that: (a) the party cannot understand and speak
80 English well enough to participate fully in the proceedings and to
81 assist counsel; or (b) the witness cannot speak English so as to
82 be understood directly by counsel, court and jury.

83 (2) The court should examine a party or witness on the
84 record to determine whether an interpreter is needed if:

85 (a) A party or counsel requests such an examination;

86 (b) It appears to the court that the party or witness
87 may not understand and speak English well enough to participate
88 fully in the proceedings; or

89 (c) If the party or witness requests an interpreter.

90 The fact that a person for whom English is a second language
91 knows some English should not prohibit that individual from being
92 allowed to have an interpreter.

93 (3) After the examination, the court should state its
94 conclusion on the record, and the file in the case shall be
95 clearly marked and data entered electronically when appropriate by

96 court personnel to ensure that an interpreter will be present when
97 needed in any subsequent proceeding.

98 (4) Upon a request by the non-English speaking person, by
99 counsel, or by any other officer of the court, the court shall
100 determine whether the interpreter provided is able to communicate
101 accurately with and translate information to and from the
102 non-English speaking person. If it is determined that the
103 interpreter cannot perform these functions, the court shall
104 provide the non-English speaking person with another interpreter.

105 **SECTION 6. Interpreter's fees and expenses.** (1) Any
106 volunteer interpreter providing services under this act shall be
107 paid reasonable expenses by the court.

108 (2) The expenses of providing an interpreter in any court
109 proceeding may be assessed by the court as costs in the
110 proceeding, or in the case of an indigent criminal defendant to be
111 paid by the county.

112 **SECTION 7.** Section 99-17-7, Mississippi Code of 1972, is
113 amended as follows:

114 99-17-7. In criminal cases wherein the defendant has been
115 declared indigent, the court may appoint an interpreter who is
116 certified as provided in Section 2 of Senate Bill No. 2197, 2005
117 Regular Session, when necessary, sworn truly to interpret, and
118 allow him a reasonable compensation, as set by the court, payable
119 out of the county treasury.

120 **SECTION 8.** This act shall take effect and be in force from
121 and after July 1, 2005.