

By: Senator(s) Harden

To: Judiciary, Division A

SENATE BILL NO. 2269

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

30 (2) (a) The Department of Education shall prescribe the
31 qualifications of and certify persons who may serve as certified
32 interpreters in all courts of the State of Mississippi in
33 bilingual proceedings.

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

38 (3) In all state court bilingual proceedings, the presiding
39 judicial officer, with the assistance of the director, shall
40 utilize the services of a certified interpreter to communicate
41 verbatim all spoken or written words when the necessity therefor
42 has been determined pursuant to Section 5 of Senate Bill No. 2269,
43 2006 Regular Session.

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

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

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

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

58 INTERPRETER'S OATH

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

63 (3) Interpreters shall not voluntarily disclose any
64 admission or communication that is declared to be confidential or
65 privileged under state law. Out-of-court disclosures made by a
66 non-English speaker communicating through an interpreter shall be
67 treated by the interpreter as confidential or privileged or both
68 unless the court orders the interpreter to disclose such
69 communications or the non-English speaker waives such
70 confidentiality or privilege.

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

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

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

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

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

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

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

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

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

94 (3) After the examination, the court should state its
95 conclusion on the record, and the file in the case shall be

96 clearly marked and data entered electronically when appropriate by
97 court personnel to ensure that an interpreter will be present when
98 needed in any subsequent proceeding.

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

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

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

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

115 99-17-7. In criminal cases wherein the defendant has been
116 declared indigent, the court may appoint an interpreter who is
117 certified as provided in Section 2 of Senate Bill No. 2269, 2006
118 Regular Session, when necessary, sworn truly to interpret, and
119 allow him a reasonable compensation, as set by the court, payable
120 out of the county treasury.

121 **SECTION 8.** This act shall take effect and be in force from
122 and after July 1, 2006.