

By: Representatives Cockerham, Anthony,
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To: Judiciary A

HOUSE BILL NO. 1217

1 AN ACT TO REVISE THE COURT INTERPRETERS PROGRAM ADMINISTERED
 2 BY THE ADMINISTRATIVE OFFICE OF COURTS; TO AMEND SECTION 9-21-71,
 3 MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN DEFINITIONS AND TO
 4 CREATE THREE LEVELS OF INTERPRETERS AUTHORIZED TO SERVE IN CIVIL
 5 AND CRIMINAL PROCEEDINGS IN ALL COURTS; TO AMEND SECTION 9-21-73,
 6 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE USE OF AN INTERPRETER
 7 WHENEVER A LIMITED ENGLISH PROFICIENT (LEP) INDIVIDUAL IS INVOLVED
 8 IN LITIGATION; TO AMEND SECTIONS 9-21-77 AND 9-21-79, MISSISSIPPI
 9 CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO CREATE
 10 NEW SECTION 9-21-80, MISSISSIPPI CODE OF 1972, TO PRESCRIBE
 11 CERTAIN REQUIREMENTS FOR THE COURTS RELATING TO THE APPOINTMENT OF
 12 AN INTERPRETER; TO AMEND SECTION 9-21-81, MISSISSIPPI CODE OF
 13 1972, TO REQUIRE THE COST OF PROVIDING AN INTERPRETER IN ANY
 14 PROCEEDING TO BE PAID BY THE COUNTY OR MUNICIPALITY; TO AMEND
 15 SECTION 99-17-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
 16 APPOINTMENT OF AN INTERPRETER IN ALL CRIMINAL CASES WHERE THE
 17 DEFENDANT IS A LIMITED ENGLISH PROFICIENT (LEP) INDIVIDUAL; AND
 18 FOR RELATED PURPOSES.

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

20 **SECTION 1.** Section 9-21-71, Mississippi Code of 1972, is
 21 amended as follows:

22 9-21-71. The following words and phrases * * * have the
 23 meanings ascribed * * * in this section unless the context clearly
 24 requires otherwise:

25 (a) * * * "Limited English Proficient (LEP) individual"
 26 means any party or witness who cannot readily understand or



27 communicate in spoken English or who does not speak English as his
28 or her primary language and who consequently has a limited ability
29 to read, speak, write or understand English and cannot equally
30 participate in or benefit from the proceedings unless an
31 interpreter is available to assist the individual. The fact that
32 a person for whom English is a second language knows some English
33 does not prohibit that individual from being allowed to have an
34 interpreter.

35 (b) "Court interpreter" means any person authorized by
36 a court * * * who is competent to translate or interpret oral or
37 written communication in a foreign language during court
38 proceedings. A court interpreter may be one (1) of the following:

39 (i) "Certified court interpreter," which means an
40 interpreter who successfully has met all requirements promulgated
41 by the Administrative Office of Courts to be designated a
42 registered court interpreter and has scored at least seventy
43 percent (70%) on each of the three (3) sections of an approved
44 criterion-referenced oral performance examination.

45 (ii) "Registered court interpreter," which means
46 an interpreter who has:

47 1. Attended an approved two-day,
48 fourteen-hour ethics and skill building workshop;

49 2. Passed an approved criterion-referenced
50 written examination with a minimum overall score of eighty percent
51 (80%);



52 3. Submitted to a criminal background check;
53 4. Provided verification of legal right to
54 work in the United States;
55 5. Executed the Interpreter Oath; and
56 6. Satisfied any additional requirements that
57 the Administrative Office of Courts may establish in order to be
58 listed as a registered court interpreter on the roster.

59 (iii) "Non-credentialed interpreter," which means
60 an interpreter who has not met the requirements promulgated by the
61 Administrative Office of Courts to be classified as a registered
62 or certified court interpreter.

63 (c) "Court proceedings" means a proceeding before any
64 court of this state or a grand jury hearing, including all civil
65 and criminal hearings and trials.

66 (d) "Interpretation" means the accurate and complete
67 unrehearsed transmission of an oral message from one (1) language
68 to an oral message in another language. Interpretation may be one
69 (1) of the following:

70 (i) "Consecutive interpretation," which means
71 providing the target-language message after the speaker has
72 finished speaking.

73 (ii) "Sight translation," which means oral
74 translation of a written document.



75 (iii) "Simultaneous interpretation," which means
76 providing the target-language message at approximately the same
77 time the source-language message is being produced.

78 (e) "Source language" means the input language
79 requiring interpretation.

80 (f) "Target language" means the output language into
81 which the utterance is being interpreted.

82 (g) "Translation" means the process of translating text
83 from one (1) language to another to maintain the original message
84 and communication.

85 **SECTION 2.** Section 9-21-73, Mississippi Code of 1972, is
86 amended as follows:

87 9-21-73. (1) The * * * Administrative Office of Courts
88 shall establish a program to facilitate the use of interpreters in
89 all courts of the State of Mississippi.

90 (2) (a) The Administrative Office of Courts shall prescribe
91 the qualifications of and * * * qualify persons who may serve
92 as * * * credentialed court interpreters in all courts of the
93 State of Mississippi * * *. The * * * Administrative Office of
94 Courts may set and charge a reasonable fee for * * *
95 credentialing.

96 (b) The * * * Administrative Office of Courts shall
97 maintain a current master list of all * * * credentialed court
98 interpreters * * * (the "Roster").



99 (3) In all * * * bilingual proceedings, the presiding
100 judicial officer, with the assistance of the * * * Administrative
101 Office of Courts, shall utilize the services of * * * an
102 interpreter to communicate * * * all spoken or written words when
103 the necessity therefor has been determined pursuant to Section
104 9-21-79.

105 (4) A Limited English Proficient (LEP) individual is
106 entitled to use an interpreter in any instance arising out of or
107 pertaining to the individual's involvement in litigation.

108 (5) All * * * courts shall maintain on file in the office of
109 the clerk of the court a list of all persons who have been * * *
110 credentialed as court interpreters in accordance with the * * *
111 Administrative Office of Court's Credentialing Program established
112 pursuant to this section.

113 **SECTION 3.** Section 9-21-77, Mississippi Code of 1972, is
114 amended as follows:

115 9-21-77. (1) Prior to providing any service to a * * *
116 Limited English Proficient (LEP) individual, the interpreter shall
117 subscribe to an oath that he or she shall interpret all
118 communications in an accurate manner to the best of his or her
119 skill and knowledge.

120 (2) The oath shall conform substantially to the following
121 form:

122 INTERPRETER'S OATH



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

127 (3) Interpreters shall not voluntarily disclose any
128 admission or communication that is declared to be confidential or
129 privileged under state law. Out-of-court disclosures made by
130 a * * * Limited English Proficient (LEP) individual communicating
131 through an interpreter shall be treated by the interpreter as
132 confidential or privileged or both unless the court orders the
133 interpreter to disclose such communications or the * * * Limited
134 English Proficient (LEP) individual waives such confidentiality or
135 privilege.

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

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

142 **SECTION 4.** Section 9-21-79, Mississippi Code of 1972, is
143 amended as follows:

144 9-21-79. (1) An interpreter is needed and a court
145 interpreter shall be appointed when the judge determines, after an
146 examination of a party or witness, that: (a) the party cannot
147 understand and speak English well enough to participate fully in



148 the proceedings and to assist counsel; or (b) the witness cannot
149 speak English so as to be understood directly by counsel, court
150 and jury.

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

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

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

157 (c) * * * The party or witness requests an interpreter.

158 The fact that a person for whom English is a second language
159 knows some English * * * does not prohibit that individual from
160 being allowed to have an interpreter.

161 (3) After the examination, the court should state its
162 conclusion on the record, and the file in the case shall be
163 clearly marked and data entered electronically when appropriate by
164 court personnel to ensure that an interpreter will be present when
165 needed in any subsequent * * * instance arising out of the
166 litigation.

167 (4) Upon a request by the * * * Limited English Proficient
168 (LEP) individual, by counsel, or by any other officer of the
169 court, the court shall determine whether the interpreter provided
170 is able to communicate accurately with and translate information
171 to and from the * * * Limited English Proficient (LEP) individual.

172 If it is determined that the interpreter cannot perform these



173 functions, the court shall provide the * * * Limited English
174 Proficient (LEP) individual with another interpreter.

175 **SECTION 5.** The following shall be codified as Section
176 9-21-80, Mississippi Code of 1972:

177 9-21-80. (1) The court shall appoint an interpreter in the
178 following order of preference:

179 (a) Certified court interpreter.

180 (b) Registered court interpreter.

181 (c) Non-credential interpreter.

182 (2) A non-credentialed interpreter may be appointed if:

183 (a) Neither a certified nor registered court
184 interpreter reasonably is available; and

185 (b) The court has evaluated the totality of the
186 circumstances, including the gravity of the judicial proceeding
187 and the potential penalty or consequence involved.

188 (3) If the court appoints a non-credentialed interpreter,
189 the court must make the following findings on the record:

190 (a) The proposed interpreter appears to have: (i)
191 adequate language skills, knowledge of interpreting techniques,
192 and familiarity with interpreting in a court setting; and (ii)
193 read and understand, and agrees to abide by, the Mississippi Code
194 of Ethics for Court Interpreters and the Mississippi Rules on
195 Standards for Court Interpreters.

196 (4) A summary of the efforts made to obtain a certified or
197 registered court interpreter, as well as a summary of the efforts



198 to determine the capabilities of the proposed non-credentialed
199 interpreter, must be made in open court and placed on the record.

200 **SECTION 6.** Section 9-21-81, Mississippi Code of 1972, is
201 amended as follows:

202 9-21-81. (1) Any volunteer interpreter providing services
203 under Sections 9-21-71 through 9-21-81 shall be paid reasonable
204 expenses by the court.

205 (2) The expenses of providing an interpreter in any court
206 proceeding * * * or instance arising out of litigation must
207 be * * * payable out of the county or municipal treasury at no
208 cost to the litigant.

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

211 99-17-7. In all criminal cases wherein the defendant * * *
212 is a Limited English Proficient (LEP) individual, the court * * *
213 shall appoint * * * a qualified interpreter * * * as provided
214 in * * * Section 9-21-80, * * * sworn truly to interpret, and
215 allow him a reasonable compensation, as set by the court, payable
216 out of the county or municipal treasury at no cost to the
217 defendant.

218 **SECTION 8.** This act shall take effect and be in force from
219 and after July 1, 2023.

