

By: Representative Yates

To: Judiciary A

HOUSE BILL NO. 1223

1 AN ACT TO MAKE TECHNICAL REVISIONS TO THE COURT INTERPRETERS
2 PROGRAM ADMINISTERED BY THE ADMINISTRATIVE OFFICE OF COURTS; TO
3 AMEND SECTION 9-21-71, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN
4 DEFINITIONS; TO AMEND SECTION 9-21-73, MISSISSIPPI CODE OF 1972,
5 TO CLARIFY THAT THE COURT INTERPRETER PROGRAM IS TO PROVIDE
6 LANGUAGE ACCESS IN ALL MISSISSIPPI COURTS; TO AMEND SECTION
7 9-21-77, MISSISSIPPI CODE OF 1972, TO REVISE THE INTERPRETER'S
8 OATH; TO AMEND SECTION 9-21-79, MISSISSIPPI CODE OF 1972, TO
9 REVISE PROVISIONS RELATING TO THE DETERMINATION OF WHETHER A COURT
10 INTERPRETER IS NEEDED AND TO AUTHORIZE A LIMITED ENGLISH
11 PROFICIENT INDIVIDUAL TO WAIVE THE SERVICES OF AN INTERPRETER; TO
12 AMEND SECTION 9-21-80, MISSISSIPPI CODE OF 1972, TO DECLARE THAT
13 ALL COURT INTERPRETERS ARE SUBJECT TO THE ETHICAL REQUIREMENTS OF
14 THE MISSISSIPPI COURT INTERPRETER CREDENTIALING PROGRAM REGARDLESS
15 OF WHETHER OR NOT THEY ARE LISTED ON THE ROSTER OF CREDENTIALLED
16 INTERPRETERS MAINTAINED BY THE ADMINISTRATIVE OFFICE OF COURTS; TO
17 AMEND SECTION 9-21-81, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
18 EXPENSES OF AN INTERPRETER TO BE PAID WITH ANY FUNDS AVAILABLE FOR
19 SUCH PURPOSE FOR ANY LIMITED ENGLISH PROFICIENT PARTY, WITNESS OR
20 PARTICIPANT; TO CREATE NEW SECTION 9-21-82, MISSISSIPPI CODE OF
21 1972, TO REQUIRE EACH COURT TO SUBMIT AN ANNUAL REPORT CONTAINING
22 SPECIFIED INFORMATION TO THE ADMINISTRATIVE OFFICE OF COURTS; TO
23 AMEND SECTION 9-17-7, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
24 EXPENSES OF AN INTERPRETER IN A CRIMINAL PROCEEDING TO BE PAID
25 WITH ANY FUNDS AVAILABLE FOR SUCH PURPOSE FOR ANY LIMITED ENGLISH
26 PROFICIENT PARTY, WITNESS OR PARTICIPANT; AND FOR RELATED
27 PURPOSES.

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

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



31 9-21-71. The following words and phrases have the meanings
32 ascribed in this section unless the context clearly requires
33 otherwise:

34 (a) "Limited English Proficient (LEP) individual" means
35 any party * * *, witness or participant who cannot readily
36 understand or communicate in spoken English or who does not speak
37 English as his or her primary language and who consequently has a
38 limited ability to read, speak, write or understand English and
39 cannot equally participate in or benefit from the proceedings
40 unless an interpreter is available to assist the individual. The
41 fact that an individual is a person for whom English is a second
42 language * * * does not prohibit that individual from being
43 allowed to have an interpreter.

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

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

54 (ii) "Registered court interpreter," which means
55 an interpreter who has:



- 56 1. Attended an approved two-day,
57 fourteen-hour ethics and skill building workshop;
- 58 2. Passed an approved criterion-referenced
59 written examination with a minimum overall score of eighty percent
60 (80%);
- 61 3. Submitted to a criminal background check;
- 62 4. Provided verification of legal right to
63 work in the United States;
- 64 5. Executed the Interpreter Oath; and
- 65 6. Satisfied any additional requirements that
66 the Administrative Office of Courts may establish * * * to be
67 listed as a registered court interpreter on the Roster.

68 (iii) "Noncredentialed interpreter," which means
69 an interpreter who has not met the requirements promulgated by the
70 Administrative Office of Courts to be classified as a registered
71 or certified court interpreter and therefore, is not listed on the
72 Roster.

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

76 (d) "Interpretation" means the accurate and complete
77 unrehearsed transmission of an oral message from one (1) language
78 to an oral message in another language. Interpretation may be one
79 (1) of the following:



80 (i) "Consecutive interpretation," which means
81 providing the target-language message after the speaker has
82 finished speaking.

83 (ii) "Sight translation," which means oral
84 translation of a written document.

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

88 (e) "Source language" means the input language
89 requiring interpretation.

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

92 (g) "Translation" means the process of translating text
93 from one (1) language to another to maintain the original message
94 and communication.

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

97 9-21-73. (1) The Administrative Office of Courts shall
98 establish a program for language access and to facilitate the use
99 of interpreters in all courts of the State of Mississippi.

100 (2) (a) The Administrative Office of Courts shall prescribe
101 the qualifications of and qualify persons who may serve as
102 credentialed court interpreters in all courts of the State of
103 Mississippi. The Administrative Office of Courts may set and
104 charge a reasonable fee for credentialing.



105 (b) The Administrative Office of Courts shall maintain
106 a current master list of all credentialed court interpreters (the
107 "Roster").

108 (3) In all bilingual proceedings, the presiding judicial
109 officer, with the assistance of the Administrative Office of
110 Courts, shall utilize the services of an interpreter to
111 communicate all spoken or written words * * *.

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

115 (5) All courts shall maintain on file in the office of the
116 clerk of the court a list of all persons who have been
117 credentialed as court interpreters in accordance with the
118 Administrative Office of Court's Credentialing Program established
119 pursuant to this section.

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

122 9-21-77. (1) Prior to providing any service to a Limited
123 English Proficient (LEP) individual, the interpreter shall
124 subscribe to an oath that he or she shall interpret all
125 communications in an accurate manner to the best of his or her
126 skill and knowledge.

127 (2) The oath shall conform substantially to the following
128 form:

129 INTERPRETER'S OATH



130 "Do you solemnly swear or affirm that you will faithfully
131 interpret from (state the language) into English and from English
132 into (state the language) * * * accurately, completely and
133 impartially, using your best * * * skill and * * * judgment in
134 accordance with prescribed law, the Mississippi Rules on Standards
135 for Court Interpreters, and the Mississippi Code of Ethics for
136 Court Interpreters, and that you will discharge all the solemn
137 duties and obligations of legal interpretation and translation?"

138 (3) Interpreters shall not voluntarily disclose any
139 admission or communication that is declared to be confidential or
140 privileged under state law. Out-of-court disclosures made by a
141 Limited English Proficient (LEP) individual communicating through
142 an interpreter shall be treated by the interpreter as confidential
143 or privileged or both unless the court orders the interpreter to
144 disclose such communications or the Limited English Proficient
145 (LEP) individual waives such confidentiality or privilege.

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

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

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



154 9-21-79. (1) An interpreter is needed and a court
155 interpreter shall be appointed when the judge determines * * *
156 that: (a) * * * a party, witness or participant cannot understand
157 and speak English well enough to participate fully in the
158 proceedings and to assist counsel; or (b) the witness cannot speak
159 English so as to be understood directly by counsel, court and
160 jury.

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

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

164 (b) It appears to the court that the party or witness
165 may not understand and speak English well enough to participate
166 fully in the proceedings * * *.

167 * * *

168 (3) After the examination, the court should state its
169 conclusion on the record, and the file in the case shall be
170 clearly marked and data entered electronically when appropriate by
171 court personnel to ensure that an interpreter will be present when
172 needed in any subsequent hearing or instance arising out of the
173 litigation.

174 (4) * * * The court shall determine whether the interpreter
175 provided is able to communicate accurately with and translate
176 information to and from the Limited English Proficient (LEP)
177 individual. If it is determined that the interpreter cannot



178 perform these functions, the court shall provide the Limited
179 English Proficient (LEP) individual with another interpreter.

180 (5) Recognition of the need for a court interpreter may
181 arise from a request by a party or counsel, the court's own voir
182 dire of a party or witness, or disclosures made to the court by a
183 party, counsel, court employee, or other person familiar with the
184 ability or inability of the person to understand and communicate
185 in English.

186 (6) A Limited English Proficient (LEP) individual, at any
187 point in a proceeding, may waive the services of a court
188 interpreter. The waiver of the interpreter's services must be in
189 writing in the person's native language. In addition, the waiver
190 must be knowing and voluntary and with the approval of the court.
191 Any deliberations made on matters of waiver or the retraction of a
192 waiver must be made on the record. Granting a waiver under this
193 subsection is a matter of judicial discretion. The waiver may be
194 approved only after:

195 (a) The court explains in open court to the LEP
196 individual, through an interpreter, the nature and effect of the
197 waiver;

198 (b) The court determines in open court that the waiver
199 has been made knowingly, intelligently and voluntarily; and

200 (c) In a criminal matter, the court determines that the
201 defendant has been afforded the opportunity to consult with the
202 defendant's attorney regarding the waiver.



203 (7) At any point in the proceeding, the LEP individual may
204 retract the waiver and request an interpreter.

205 **SECTION 5.** Section 9-21-80, Mississippi Code of 1972, is
206 amended as follows:

207 9-21-80. (1) The court shall appoint an interpreter in the
208 following order of preference:

209 (a) Certified court interpreter.

210 (b) Registered court interpreter.

211 (c) Noncredentialed interpreter.

212 (2) A noncredentialed interpreter may be appointed if:

213 (a) Neither a certified nor registered court
214 interpreter reasonably is available; and

215 (b) The court has evaluated the totality of the
216 circumstances, including the gravity of the judicial proceeding
217 and the potential penalty or consequence involved.

218 (3) If the court appoints * * * an interpreter who is not
219 certified, the court must make the following findings on the
220 record:

221 (a) The proposed interpreter appears to have: (i)
222 adequate language skills, knowledge of interpreting techniques,
223 and familiarity with interpreting in a court setting; and (ii)
224 read and understand, and agrees to abide by, the Mississippi Code
225 of Ethics for Court Interpreters and the Mississippi Rules on
226 Standards for Court Interpreters.



227 (4) A summary of the efforts made to obtain a
228 certified * * * court interpreter, as well as a summary of the
229 efforts to determine the capabilities of the proposed * * *
230 interpreter, must be made in open court and placed on the record.

231 (5) Each interpreter providing court interpreting services
232 is subject to the ethical requirements set forth in the
233 Mississippi Court Interpreter Credentialing Program without regard
234 to whether or not the interpreter is listed on the Roster.

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

237 9-21-81. (1) Any volunteer interpreter providing services
238 under Sections 9-21-71 through 9-21-81 shall be paid reasonable
239 expenses by the court.

240 (2) The expenses of providing an interpreter in any court
241 proceeding or instance arising out of litigation must be payable
242 out of the county or municipal treasury or any other source of
243 funds available for this purpose at no cost to the litigant or the
244 Limited English Proficient (LEP) party, witness or participant.

245 **SECTION 7.** The following shall be codified as Section
246 9-21-82, Mississippi Code of 1972:

247 9-21-82. Each court in the State of Mississippi shall
248 prepare and submit a report annually to the Administrative Office
249 of Courts with information and plans concerning implementation of
250 language access. The report must include, but is not limited to,
251 the following:



252 (a) The number of bilingual staff who are available to
253 facilitate language access and the languages they facilitate;

254 (b) A plan to address any insufficiency in its ability
255 to provide language access;

256 (c) A list of vital documents that the court has had
257 translated and the language of the translation;

258 (d) The number of times a court interpreter was
259 utilized, what language was needed, and the total cost of
260 utilizing court interpreters; and

261 (e) A staff training plan related to language access,
262 which plan must contain specific information regarding
263 implementation, including the specific types of language services
264 available and how the court will do all of the following:

265 (i) Obtain language services internally or from
266 vendors;

267 (ii) Respond to callers with limited English
268 proficiency;

269 (iii) Respond to written communications from
270 individuals with limited English proficiency;

271 (iv) Respond to individuals with limited English
272 proficiency who have in-person contact with staff;

273 (v) Collect language data for all public
274 encounters; and

275 (vi) Indicate limited English proficiency status
276 in data and information systems.



277 **SECTION 8.** Section 99-17-7, Mississippi Code of 1972, is
278 amended as follows:

279 99-17-7. In all criminal cases wherein * * * a defendant,
280 witness or participant is a Limited English Proficient (LEP)
281 individual, the court shall appoint a qualified interpreter as
282 provided in Section 9-21-80, sworn truly to interpret, and allow
283 him a reasonable compensation, as set by the court, payable out of
284 the county or municipal treasury or any other source of funds
285 available for this purpose at no cost to the * * * Limited English
286 Proficient (LEP) party, witness or participant.

287 **SECTION 9.** This act shall take effect and be in force from
288 and after July 1, 2024.

