

By: Representative Yates

To: Judiciary A

## HOUSE BILL NO. 1248

1 AN ACT TO AMEND SECTION 9-21-71, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE AN ORAL INTERVIEW FOR REGISTERED INTERPRETERS; TO AMEND  
3 SECTION 9-21-73, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE AOC TO  
4 ESTABLISH A LANGUAGE ACCESS PROGRAM; TO AMEND SECTION 9-21-77,  
5 MISSISSIPPI CODE OF 1972, TO REVISE THE INTERPRETERS OATH; TO  
6 AMEND SECTIONS 9-21-79, 9-21-80 AND 9-21-81, MISSISSIPPI CODE OF  
7 1972, TO CONFORM TO THE PRECEDING SECTION; TO CREATE NEW SECTION  
8 9-21-82, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH COURT TO  
9 DEVELOP AND SUBMIT AN ANNUAL REPORT TO AOC WITH CERTAIN  
10 INFORMATION RELATED TO ACCESS TO LIMITED ENGLISH PROFICIENT  
11 INDIVIDUALS; TO AMEND SECTION 9-17-7, MISSISSIPPI CODE OF 1972,  
12 TO CLARIFY; TO BRING FORWARD SECTION 9-21-75, MISSISSIPPI CODE OF  
13 1972, WHICH PROVIDES THE AUTHORITY TO HIRE INTERPRETERS OR ALLOW  
14 VOLUNTEER INTERPRETERS; AND FOR RELATED PURPOSES.

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

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

18 9-21-71. The following words and phrases have the meanings  
19 ascribed in this section unless the context clearly requires  
20 otherwise:

21 (a) "Limited English Proficient (LEP) individual" means  
22 any party \* \* \*, witness or participant who cannot readily  
23 understand or communicate in spoken English or who does not speak  
24 English as his or her primary language and who consequently has a



25 limited ability to read, speak, write or understand English and  
26 cannot equally participate in or benefit from the proceedings  
27 unless an interpreter is available to assist the individual. The  
28 fact that a person for whom English is a second language \* \* \*  
29 does not prohibit that individual from being allowed to have an  
30 interpreter.

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

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

41 (ii) "Registered court interpreter," which means  
42 an interpreter who has:

- 43 1. Attended an approved two-day,  
44 fourteen-hour ethics and skill building workshop;
- 45 2. Passed an approved criterion-referenced  
46 written examination with a minimum overall score of eighty percent  
47 (80%);



48                   3.   Passed an approved Oral Proficiency  
49   Interview pursuant to the rules established by the Administrative  
50   Office of Courts;

51                   \* \* \*4.   Submitted to a criminal background  
52   check;

53                   \* \* \*5.   Provided verification of legal right  
54   to work in the United States;

55                   \* \* \*6.   Executed the Interpreter Oath; and

56                   \* \* \*7.   Satisfied any additional  
57   requirements that the Administrative Office of Courts may  
58   establish in order to be listed as a registered court interpreter  
59   on the roster.

60                   (iii)   "Noncredentialed interpreter," which means  
61   an interpreter who has not met the requirements promulgated by the  
62   Administrative Office of Courts to be classified as a registered  
63   or certified court interpreter and therefore not listed on the  
64   roster.

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

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



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

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

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

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

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

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

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

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

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



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

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

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

(5) All courts shall \* \* \* utilize the current roster of credentialed \* \* \* court interpreters \* \* \* maintained by the Administrative Office of Court's Credentialing Program established pursuant to this section.

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

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

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

INTERPRETER'S OATH



121 "Do you solemnly swear or affirm that you will faithfully  
122 interpret from (state the language) into English and from English  
123 into (state the language) \* \* \* accurately completely and  
124 impartially using your best skill and judgment in accordance with  
125 prescribed law, the Mississippi Rules on Standards for Court  
126 Interpreters, and the Mississippi Code of Ethics for Court  
127 Interpreters, to abide by the Rules of the Mississippi Court  
128 Interpreter Credentialing Program, and to discharge all solemn  
129 duties and obligations of legal interpretation and translation?"

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

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

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

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



146 9-21-79. (1) An interpreter is needed and a court  
147 interpreter shall be appointed when the judge determines \* \* \*  
148 that: (a) the party, witness or participant cannot understand and  
149 speak English well enough to participate fully in the proceedings  
150 and to assist counsel; or (b) the witness cannot speak English so  
151 as to be understood directly by counsel, court and jury.

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

- 154 (a) A party or counsel requests such an examination;  
155 (b) It appears to the court that the party or witness  
156 may not understand and speak English well enough to participate  
157 fully in the proceedings; or

158 \* \* \*

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

165 ( \* \* \* 3) \* \* \* The court shall determine whether the  
166 interpreter provided is able to communicate accurately with and  
167 translate information to and from the Limited English Proficient  
168 (LEP) \* \* \* participant. If it is determined that the interpreter  
169 cannot perform these functions, the court shall provide the



Limited English Proficient (LEP) \* \* \* participant with another interpreter.

(4) Recognition of the need for a court interpreter may arise from a request by a party or counsel, the court's own voir dire of a party or witness, or disclosures made to the court by parties, counsel, court employees, or other persons familiar with the ability or inability of the person to understand and communicate in English.

(5) A Limited English Proficient (LEP) individual may at any point in a proceeding waive the services of a credentialed court interpreter. The waiver must be knowing and voluntary and with the approval of the court. Any deliberations made regarding a waiver or the retraction of a waiver must be made on the record. Granting such waiver is a matter of judicial discretion. The waiver may be approved only after:

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

(b) The court explains the LEP individual's right to a credentialed court interpreter at no charge to the LEP individual;

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

(d) In a criminal matter, the court must further determine that the defendant has been afforded the opportunity to consult with his or her attorney regarding the waiver.





195       (6) At any point in the proceeding, the LEP individual may  
196 retract the waiver and request an AOC credentialed court  
197 interpreter.

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

200       9-21-80. (1) The court shall appoint an interpreter in the  
201 following order of preference:

202           (a) Certified court interpreter.

203           (b) Registered court interpreter.

204           (c) \* \* \* Noncredentialed interpreter.

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

206           (a) Neither a certified nor registered court  
207 interpreter reasonably is available; and

208           (b) The court has evaluated the totality of the  
209 circumstances, including the gravity of the judicial proceeding  
210 and the potential penalty or consequence involved.

211       (3) If the court appoints \* \* \* an interpreter that is not  
212 certified, the court must make the following findings on the  
213 record:

214           (a) The proposed interpreter appears to have: (i)  
215 adequate language skills, knowledge of interpreting techniques,  
216 and familiarity with interpreting in a court setting; and (ii)  
217 read and understand, and agrees to abide by, the Mississippi Code  
218 of Ethics for Court Interpreters and the Mississippi Rules on  
219 Standards for Court Interpreters.



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

(5) All interpreters providing court interpreting services are subject to the rules and ethical requirements set forth in the Mississippi Court Interpreter Credentialing Program, without regard to whether they are listed on the roster.

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

9-21-81. (1) Any volunteer interpreter providing services under Sections 9-21-71 through 9-21-81 \* \* \* may request reasonable expenses by the court.

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

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

9-21-82. Each court in the State of Mississippi shall develop and submit a report annually to the Administrative Office of Courts with information and plans concerning implementation of



244 language access for Limited English Proficient (LEP) individuals.

245 The report shall include, but is not limited to the following:

246 (a) The number of bilingual staff who are available to  
247 facilitate language access and the languages they facilitate.

248 (b) A plan to address any insufficiency in its ability  
249 to provide language access.

250 (c) A list of vital documents that it has had  
251 translated and the language of the translation.

252 (d) The number of times an interpreter is utilized (in  
253 both court cases and court clerk encounters), what language was  
254 needed, and the total cost for interpreters.

255 (e) A staff training plan related to language access.  
256 The staff training plan must include specific information  
257 regarding implementation, including the specific types of language  
258 services available and how the court will do all of the following:

259 (i) Obtain language services internally or from  
260 vendors.

261 (ii) Respond to callers with limited English  
262 proficiency.

263 (iii) Respond to written communications from  
264 individuals with limited English proficiency.

265 (iv) Respond to individuals with limited English  
266 proficiency who have in-person contact with staff.

267 (v) Collect language data for all public  
268 encounters.



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

271       99-17-7. In all criminal cases wherein the defendant is a  
272 Limited English Proficient (LEP) individual, the court shall  
273 appoint a qualified interpreter as provided in Section 9-21-80,  
274 sworn truly to interpret, and allow him a reasonable compensation,  
275 as set by the court, payable out of the county or municipal  
276 treasury or any other source of funds available for this purpose  
277 at no cost to the \* \* \* Limited English Proficient (LEP) party,  
278 witness or participant.

279       **SECTION 9.** Section 9-21-75, Mississippi Code of 1972, is  
280 brought forward as follows:

281       9-21-75. The court may appoint either an interpreter who is  
282 paid or a volunteer interpreter.

283       **SECTION 10.** This act shall take effect and be in force from  
284 and after July 1, 2025.

