MISSISSIPPI LEGISLATURE REGULAR SESSION 2006

By: Senator(s) Harden

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2269

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

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

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

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

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

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

SECTION 2. **Program established.** (1) The Director of the Administrative Office of Courts shall establish a program 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 certify persons who may serve as certified interpreters in all courts of the State of Mississippi in bilingual proceedings. The Director of the Administrative Office of Courts may set and charge a reasonable fee for certification.

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

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

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

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

SECTION 4. Oath, confidentiality and public comment. (1) Prior to providing any service to a non-English speaking person, 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

"Do you solemnly swear or affirm that you will faithfully interpret from (state the language) into English and from English

into (state the language) the proceedings before this court in an accurate manner to the best of your skill and knowledge?"

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

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

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

SECTION 5. Determination of need for an interpreter. (1) An interpreter is needed and a court interpreter shall be appointed when the judge determines, after an examination of a party or witness, that: (a) the party cannot understand and speak English well enough to participate fully in the proceedings and to assist counsel; or (b) the witness cannot speak English so as to be understood directly by counsel, court and jury.

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

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

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

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

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

(3) After the examination, the court should state its conclusion on the record, and the file in the case shall be clearly marked and data entered electronically when appropriate by court personnel to ensure that an interpreter will be present when needed in any subsequent proceeding.

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

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

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

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

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

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