

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 367

1 AN ACT TO AMEND SECTIONS 9-21-71, 9-21-73, 9-21-75, 9-21-77,
2 9-21-79 AND 9-21-81, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
3 USE OF INTERPRETERS IN PROCEEDINGS BEFORE STATE AGENCIES AND
4 POLITICAL SUBDIVISIONS; AND FOR RELATED PURPOSES.

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

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

8 9-21-71. The following words and phrases shall have the
9 meanings ascribed to them unless the context clearly requires
10 otherwise:

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

18 (b) "Interpreter" means any person authorized by a
19 court and competent to translate or interpret oral or written
20 communication in a foreign language during court proceedings, or
21 any person competent to translate or interpret oral or written
22 communication in a foreign language during state agency
23 proceedings or any proceedings in any political subdivision of the
24 state.

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

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

29 9-21-73. (1) The Director of the Administrative Office of
30 Courts shall establish a program to facilitate the use of
31 interpreters in all courts, state agencies and proceedings in any
32 political subdivision of the State of Mississippi.

33 (2) (a) The Administrative Office of Courts shall prescribe
34 the qualifications of and certify persons who may serve as
35 certified interpreters in all courts, state agencies and
36 proceedings in any political subdivision of the State of
37 Mississippi in bilingual proceedings. The Director of the
38 Administrative Office of Courts may set and charge a reasonable
39 fee for certification.

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

44 (3) In all * * * bilingual proceedings, the presiding
45 judicial officer, with the assistance of the director, shall
46 utilize the services of a certified interpreter to communicate
47 verbatim all spoken or written words when the necessity therefor
48 has been determined pursuant to Section 9-21-79.

49 (4) All state courts, state agencies and political
50 subdivisions shall maintain on file * * * a list of all persons
51 who have been certified as interpreters in accordance with the
52 certification program established pursuant to this section.

53 **SECTION 3.** Section 9-21-75, Mississippi Code of 1972, is
54 amended as follows:

55 9-21-75. The court, a state agency or a political
56 subdivision may appoint either an interpreter who is paid or a
57 volunteer interpreter.

58 **SECTION 4.** Section 9-21-77, Mississippi Code of 1972, is
59 amended as follows:

60 9-21-77. (1) Prior to providing any service to a
61 non-English speaking person, the interpreter shall subscribe to an

62 oath that he or she shall interpret all communications in an
63 accurate manner to the best of his or her skill and knowledge.

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

66 INTERPRETER'S OATH

67 "Do you solemnly swear or affirm that you will faithfully
68 interpret from (state the language) into English and from English
69 into (state the language) the proceedings before this court,
70 agency or political subdivision in an accurate manner to the best
71 of your skill and knowledge?"

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

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

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

86 **SECTION 5.** Section 9-21-79, Mississippi Code of 1972, is
87 amended as follows:

88 9-21-79. (1) An interpreter is needed and an interpreter
89 shall be appointed when the judge or hearing officer determines,
90 after an examination of a party or witness, that: (a) the party
91 cannot understand and speak English well enough to participate
92 fully in the proceedings and to assist counsel; or (b) the witness
93 cannot speak English so as to be understood directly by counsel,
94 court, jury or other body.

95 (2) The court, agency or political subdivision should
96 examine a party or witness on the record to determine whether an
97 interpreter is needed if:

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

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

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

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

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

112 (4) Upon a request by the non-English speaking person, by
113 counsel, or by any other officer of the court, agency or political
114 subdivision the court, agency or political subdivision shall
115 determine whether the interpreter provided is able to communicate
116 accurately with and translate information to and from the
117 non-English speaking person. If it is determined that the
118 interpreter cannot perform these functions, the court, agency or
119 political subdivision shall provide the non-English speaking
120 person with another interpreter.

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

123 9-21-81. (1) Any volunteer interpreter providing services
124 under this act shall be paid reasonable expenses by the court,
125 agency or political subdivision.

126 (2) The expenses of providing an interpreter in any * * *
127 proceeding may be assessed by the court, agency or political

128 subdivision as costs in the proceeding, or in the case of an
129 indigent criminal defendant to be paid by the county.

130 **SECTION 7.** This act shall take effect and be in force from
131 and after July 1, 2007.