

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 849 CS

Regulation of Court Interpreters

SPONSOR(S): Flores

TIED BILLS:

IDEN./SIM. BILLS: SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee	12 Y, 0 N, w/CS	Hogge	Hogge
2) Business Regulation Committee	19 Y, 0 N	Watson	Liepshutz
3) Judiciary Appropriations Committee		Brazzell	DeBeaugrine
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

HB 849 requires the Supreme Court to establish minimum standards and procedures for foreign language court interpreters. These would cover qualifications, certification, professional conduct, discipline, and training. It would also permit the Supreme Court to charge fees to applicants seeking to become certified or renew their certification as a court interpreter. These revenues would be used to offset the costs of administering the certification program and performing other related responsibilities. The Supreme Court would be authorized to appoint or employ personnel to assist the court in administering these responsibilities.

This bill has an indeterminate fiscal impact upon state government. It does not appear to have a fiscal impact on local governments. See "Fiscal Analysis & Economic Impact Statement", below.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government. The bill authorizes the creation of a new program for certifying, training, and disciplining foreign language court interpreters. It specifically authorizes the Supreme Court to employ necessary staff to administer the program.

Ensure lower taxes. The bill authorizes the Supreme Court to impose fees to fund the foreign language court interpreter certification program and other responsibilities authorized in the bill.

B. EFFECT OF PROPOSED CHANGES:

Background

Courts have determined that indigent defendants have a constitutional right to a foreign language court interpreter when a fundamental interest is at stake. Implicated are the due process, equal protection, and confrontation clauses of both the federal and Florida constitutions. Additionally, in Florida, the access to courts provision is also implicated.¹ Judges have broad discretion to determine whether or not an interpreter is necessary in a particular case. By statute, the Legislature requires a judge to appoint an interpreter when the judge determines that a witness cannot hear or understand the English language or cannot express himself or herself in English sufficiently to be understood.² Generally, it is thought that the appointment of an interpreter serves to protect the rights of parties; assists in creating an English-language record; and facilitates the fair and efficient administration of justice.

Florida statutory law does not include standards for those serving as foreign language court interpreters and makes no provision for their certification and training. According to the Supreme Court Interpreter's Committee, Florida courts differ in the way in which they manage, regulate, and coordinate court interpreter services.³ The state courts system has developed a voluntary statewide program to assist trial court administrators in assessing the qualifications of foreign language court interpreters, including the use of qualifications examinations and an orientation program with an overview of the Code of Professional Responsibility. Additionally, as a member of the Consortium for State Court Interpreter Certification, Florida has access to standardized testing instruments, among other services and products. Interpreters passing the written and oral tests and attending the orientation program qualify for inclusion on the Registry of Tested Court Interpreters. Approximately 300 interpreters are currently included on this registry; languages spoken include Spanish, Haitian, Russian, Italian, and Portuguese. However, individuals who are not listed on the registry are still eligible to (and do) serve as court interpreters.

A survey of the ten states with the highest number of persons who do not speak English well, as determined by the U.S. Census, show that five states statutorily delegated the authority to regulate foreign language interpreters to the court, three states do not certify interpreters, one state statutorily delegated the authority to the Executive and one state's Judiciary regulates interpreters under its inherent authority.⁴

The Supreme Court Interpreter's Committee report concluded that interpreters working in the judicial system must meet a higher standard than mere bilingualism. It concluded that court interpreters have

¹ Fla. Const. art. I, s. 21.

² Fla. Stat. 90.606(1)(a) (2005)

³ Supreme Court Interpreter's Committee, Report and Recommendations 7 (October 2003).

⁴ Id. at 32. This list excludes Florida which the census ranks fourth in terms of non-English speaking persons.

specialized knowledge of legal terminology, slang and technical jargon of police officers and expert witnesses.⁵

Proposed changes

The bill requires the Supreme Court to establish minimum standards and procedures for foreign language court interpreters. These would cover qualifications, certification, professional conduct, discipline, and training. The bill also permits the Supreme Court to charge fees to applicants seeking to become certified or renew their certification as a court interpreter. These revenues would be used to offset the costs of administering the certification program and performing other related responsibilities. The Supreme Court would be authorized to appoint or employ personnel to assist the court in administering these responsibilities.

Currently, the Supreme Court is authorized to establish analogous standards and procedures for court reporters and for mediators and arbitrators similar to those proposed in this bill for foreign language court interpreters, but with two primary differences: one, in the court reporter program, the Supreme Court must impose fees, whereas for the proposed court interpreter program and the mediators/arbitrators program it is discretionary; and two, the fees imposed in the court reporter program must be in an amount sufficient to fully fund the cost of administering the certification program. Under this proposed program and the mediator/arbitrator program, no distinction is made between full or partial funding. In 2003, the Legislature repealed the provision granting fee authority to the Supreme Court for the court reporter program, only to restore it in 2004.

C. SECTION DIRECTORY:

Section 1 creates the foreign language court interpreter certification program and authorizes the Supreme Court to charge fees and employ staff for this purpose.

Section 2 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate because the imposition of a fee by the Supreme Court is optional and a specific fee amount has not yet been established by the Supreme Court. However, assuming a \$150 certification fee, a baseline number of certified interpreters of 300 with 25 additional persons becoming certified each year, and biennial certification, the revenues from certification fees would be \$48,750 in FY 06-07, \$3,750 in FY 07-08, and \$56,250 in FY 08-09. These estimates do not include revenues from orientation registration or testing fees; such fees are currently being charged and collected from individuals seeking to be tested and placed on the registry.

2. Expenditures:

The Supreme Court presently has 1 FTE funded by general revenue permanently assigned to administer the court interpreters program. Depending on the requirements for certification imposed by the court, additional FTE's and expense funding may be needed to administer the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁵ Id. at 9.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Foreign language court interpreters may be subject to payment of fees for certification.

D. FISCAL COMMENTS:

The degree to which revenues offset expenditures depends upon the level of fees that are charged, the design of the program, and the number of individuals seeking certification. The extent to which the bill will stimulate additional individuals to seek certification as foreign language court interpreters is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires program fees to be deposited into the Grants and Donations Trust Fund within the state courts system. HB 5301 creates the Operating Trust Fund in the state courts system to receive such revenue; HB 849 should be amended to deposit fees in this trust fund.

It is unclear whether the bill requires individuals providing court interpreting services to be certified by the Supreme Court. According to staff from the state courts system, interpretation services for some "exotic" languages is in such low demand due to the small number of individuals involved in the court system speaking those languages that providing a certification process for their interpreters would not be feasible, nor would interpreters be likely to want to obtain certification.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Judiciary Committee adopted two amendments and reported the bill favorably as a CS. The CS differs from the original bill in that the CS 1) clarifies that "court interpreter" is a foreign language court interpreter and 2) removes the provision restricting Supreme Court fee authority to the amount necessary to "partially fund" this program.