

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 849 CS

Regulation of Court Interpreters

**SPONSOR(S):** Flores

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1128

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

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### 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 require 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 fully 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 does not appear to have a fiscal impact on state or 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 requires 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.<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

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

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<sup>1</sup> Fla. Const. art. I, s. 21.

<sup>2</sup> Fla. Stat. 90.606(1)(a) (2005)

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

<sup>4</sup> 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.<sup>5</sup>

### 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 requires 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 fully 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.

#### C. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law regarding Supreme Court oversight of foreign language court interpreters.

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 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. See "Fiscal Comments", below.

##### 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 may be needed to administer the program. See "Fiscal Comments", below.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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<sup>5</sup> Id. at 9.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

The bill requires that revenues generated by the certification program fully offset its costs. The amount of revenues generated depends upon the level of fees that are charged, while the amount of expenditures depends upon 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:

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 with a committee substitute. The committee substitute differs from the original bill in that the committee substitute 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.

On April 11, 2006, the Judiciary Appropriations Committee adopted a strike-all amendment and reported the bill favorably with a committee substitute. The amendment requires the Supreme Court to charge fees for certification of foreign language court interpreters which fully offset the cost of administering the certification program. The amendment also provides for the deposit of fee revenue into the Operating Trust Fund within the state courts system.