

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 849
SPONSOR(S): Flores
TIED BILLS:

Regulation of Court Interpreters

IDEN./SIM. BILLS: SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee		Hogge	Hogge
2) Business Regulation Committee			
3) Judiciary Appropriations Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

The bill would require the Supreme Court to establish minimum standards and procedures for 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 partially 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 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*, not just *partially*, fund the cost of administering the certification program. The mediator/arbitrator program makes no distinction 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 In 2003, the Legislature repealed the provision granting fee authority to the Supreme Court for the court reporter program, only to restore it in 2004.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle—

Provide limited government. The bill authorizes the creation of a new program for certifying, training, and disciplining 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 partially fund the court interpreter certification program and other responsibilities authorized in the bill.

B. EFFECT OF PROPOSED CHANGES:

Proposed changes

The bill would require the Supreme Court to establish minimum standards and procedures for 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 partially offset the costs of administering the certification program. The Supreme Court would be authorized to appoint or employ personnel to assist the court in administering these responsibilities.

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Background

Courts have determined that indigent defendants have a constitutional right to a 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 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

¹ Fla. Const. art. I, s. 21.

² Fla. Stat. 90.606(1)(a) (2005)

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 standardized test and attending the orientation program qualify for inclusion on the Registry of Tested Court Interpreters.

C. SECTION DIRECTORY:

Section 1 creates the 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:

Positive, but indeterminate because the specific fee amount has not yet been established by the Supreme Court.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Court interpreters may be subject to payment of fees for certification.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not specify whether it applies to foreign language court interpreters, sign language court interpreters, or both. It also does not indicate whether or not it includes foreign language translators. If the intent of the sponsor is to limit this to foreign language court interpreters or to include translators, the bill would benefit from an amendment.

The bill also provides that fee revenues shall be used to partially offset program costs. It is unclear whether or not that means that fees may be set at less than the cost to provide the service or that the revenues generated from the fees may be used for other programs not contemplated in the bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES