

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: SB 468

INTRODUCER: Senator Bradley

SUBJECT: Court Interpreter Services

DATE: February 12, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 468 creates an exception to the general rule that state revenues may not be provided to non-indigent people for due process services. Due process services include, but are not limited to, court reporting services, court interpreter and translation services, and expert witness services.

The bill authorizes the State Courts System to spend state revenues to provide court-appointed interpreting services to non-indigent people if:

- Funds are available in the fiscal year appropriation for due process services; and
- Interpreting services are provided as prescribed by the Supreme Court.

The bill also repeals the requirement that the trial court administrator recover the cost of court interpreter services.

The bill will not have a significant fiscal impact to the State Courts System. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Current Requirements for Providing a Language Interpreter**

Florida courts are required to appoint a spoken language interpreter for non-English speaking and limited-English-proficient people in certain cases in order to comply with Title VI of the Civil Rights Act of 1964. Under current law, a spoken language interpreter is appointed in criminal and juvenile delinquency cases for non-English-speaking and limited-English-proficient

people.<sup>1</sup> In all other cases, the court appoints an interpreter for non-English-speaking and limited-English-proficient litigants only when the court determines that:

- The litigant's inability to comprehend English deprives the litigant of an understanding of the court proceedings;
- A fundamental interest is at stake (such as in a civil commitment, termination of parental rights, paternity, or dependency proceeding); and
- No alternative to the appointment of an interpreter exists.<sup>2</sup>

If a judge determines that a witness cannot hear or understand the English language, or cannot express himself or herself in English sufficiently to be understood, an interpreter will be appointed. This standard is not limited to people who speak a language other than English, but also applies to the language and descriptions of any person, including a child or person who is mentally or developmentally disabled, who cannot be reasonably understood, or who cannot understand questioning without the aid of an interpreter.<sup>3</sup>

Current law, however, provides that state-funded court interpreting services may not be provided to someone unless he or she is indigent.<sup>4</sup> Additionally, current law requires the trial court administrator to recover state-funded court interpreting services from litigants who have the present ability to pay. The rate of compensation for interpreting services is the actual cost of the interpreting services plus the cost of the recovery. The amounts recovered are deposited into the Administrative Trust Fund with the state courts system.<sup>5</sup>

### **U.S. Department of Justice**

In 2010, the U. S. Department of Justice, Civil Rights Division, (Department) issued a letter to state court chief justices and state court administrators providing clarity to state courts regarding their obligation to provide language access services to parties or witnesses with limited English proficiency. The Department noted that denying people with limited English proficiency meaningful access to the courts could place state courts in violation of civil rights requirements, particularly Title VI of the Civil Rights Act of 1964. Among the policies noted that impede compliance were:

- Limiting the types of proceedings for which qualified interpreter services are provided by the court.
- Charging interpreter costs to parties.
- Restricting language services to courtrooms.
- Failing to ensure effective communication with court-appointed or supervised personnel.<sup>6</sup>

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<sup>1</sup> Fla. R. Gen. Prac. & Jud. Admin. 2.560.

<sup>2</sup> *Id.*

<sup>3</sup> Section 90.606, F.S.

<sup>4</sup> Section 29.0185, F.S.

<sup>5</sup> Section 29.0195, F.S.

<sup>6</sup> *Department of Justice Guidance Letter Regarding the Obligation to Provide Language Access*, (Aug. 17, 2010) <https://www.justice.gov/file/1250731/download> as provided in the Office of the State Courts Administrator Bill Analysis in note 7.

Representatives of the Department are monitoring Florida's activities for compliance and progress in this area.<sup>7</sup>

### **State Court Commission on Trial Court Performance and Accountability**

Additionally, the state Commission on Trial Court Performance and Accountability has been evaluating the state trial courts' ability to expand interpreting services without charging court participants and without regard to their financial status. The Commission recommended an initial expansion of court interpreter services, without cost and regardless of someone's indigency status in limited areas. The Florida Supreme Court approved the report.<sup>8</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 29.0185, F.S., to create an exception to the general prohibition against providing state-funded due process services to non-indigent persons. The bill authorizes the use of state revenues by the State Courts System to provide court-appointed interpreting services to non-indigent people if:

- Funds are available in the fiscal year appropriation for due process services; and
- Interpreting services are provided as prescribed by the Supreme Court.

The bill also amends s. 29.0195, F.S., to repeal the requirement that the trial court administrator recover the costs of court interpreter services, which are deposited into the Administrative Trust Fund.

These changes will help bring Florida law into compliance with the Department of Justice's guidance letter regarding the obligation of state courts to provide language access services under Title VI of the Civil Rights Act of 1964.

The bill takes effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>7</sup> Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 468* (Jan. 17, 2024) <https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=35461>.

<sup>8</sup> *Id.*

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not have a fiscal impact to the State Court System in excess of its annual appropriation. The Office of the State Courts Administrator (OSCA) estimates that there will be additional demand on full-time equivalent or contract interpreters in the judicial circuits to the extent that court interpreting services will be expanded.<sup>9</sup> However, the bill limits payment for these services to non-indigent individuals to the funds available in the fiscal year appropriation. In Fiscal Year 2022-2023, the trial courts were appropriated \$21,663,353 in due process costs. Of these funds, \$1,773,269 were reverted.

While the bill eliminates the cost-recovery provision for court interpreting services, the State Court System thus far has only collected \$3,820 for court interpreting-related costs in Fiscal Year 2023-24. The bill's impact on the Administrative Trust Fund would likely be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 29.0185 and 29.0195.

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<sup>9</sup> Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 468* (Jan. 17, 2024) <https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=35461>.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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