

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 3050

**Introduced by Committee on Judiciary (Jones (Chair), Evans,
Feuer, Krekorian, Laird, Levine, and Lieber)**

February 28, 2008

An act to add Article 9.6 (commencing with Section 6159.5) to Chapter 4 of Division 3 of the Business and Professions Code, ~~and to add Sections 755.1 and 755.2 to the Evidence Code, to add Section 367.6 to the Code of Civil Procedure, to add Sections 756 and 756.5 to the Evidence Code, and to amend Section 68563 of the Government Code,~~ relating to legal services.

LEGISLATIVE COUNSEL'S DIGEST

AB 3050, as amended, Committee on Judiciary. Legal aid: court ~~interpreters:~~ *interpreters: appearances by telephone.*

(1) Existing law, the State Bar Act, provides for the licensure and regulation of attorneys by the State Bar of California, a public corporation. Existing law provides that it is the duty of an attorney to, among other things, never reject, for any consideration personal to himself or herself, the cause of the defenseless or oppressed. Existing law provides that a lawyer may fulfill his or her ethical commitment to provide pro bono services, in part, by providing financial support to organizations providing free legal services to persons of limited means.

This bill would prohibit a person or organization that is not a legal aid organization, as defined, from using the term "legal aid," or any

variant or similar name in any firm name, trade name, fictitious business name, or other designation, or on any advertisement, letterhead, business card, or sign. The bill would subject a person or organization that violates this prohibition to specified civil liability.

~~(2) Existing law provides that in any action or proceeding under specified provisions of the Family Code relating to domestic violence, in which a party does not proficiently speak or understand the English language, and that party is present, an interpreter shall be present to interpret the proceedings in a language that the party understands, and to assist communication between the party and his or her attorney, except that a court may issue prescribed orders ex parte without an interpreter. Existing law specifies that the fees of interpreters in a civil case shall be paid by the parties, except that in the above civil cases those fees shall be waived for parties who need an interpreter and appear in forma pauperis. Existing law gives the Judicial Council specified duties with regard to these provisions.~~

~~This bill would require any civil action or proceeding, in a county determined by the Judicial Council, as specified, in which a party does not proficiently speak or understand the English language and the party is present, except as specified, to have present an interpreter to interpret the proceedings in a language that the party understands and to assist the party in communicating with his or her attorney and the court. The bill would provide that the fee for interpreters mandated by this requirement be paid by the court, and would allow for priority guidelines for interpreter staffing in the event of insufficient funds or interpreters. The bill would require the Judicial Council to develop an implementation plan, a model pilot program, and training guidelines for interpreters related to those provisions, as specified. The bill would also provide that, if a party is charged a fee for interpreter services because sufficient funding or number of interpreters is not available any fees for the interpreter shall be waived for a party who appears in forma pauperis, but would authorize the court, if the party prevails, to assess those fees in the action as specified. The bill would require the Judicial Council to conduct a study of the need for court reporters in civil proceedings and the extent to which the need is being met by the above provisions and would require the Judicial Council to report its findings and recommendations to the Governor and the Legislature on or before March 1, 2011, and every 3 years thereafter.~~

(2) Existing law provides that, in all general civil cases, as defined, a party who has provided notice may appear by telephone at certain conferences, hearings, and proceedings, except as specified.

This bill would require the Judicial Council, on or before June 30, 2009, and periodically as appropriate, to enter into one or more master agreements with a vendor or vendors to provide for telephone appearances in civil cases under the provisions described above, or as otherwise permitted by law. The bill would impose requirements regarding those master agreements, including that the vendor charge a party for an appearance by telephone in an amount set by the Judicial Council, and that the vendor pay to the state \$20 for each appearance by telephone. The bill would require those funds to be deposited in the Trial Court Trust Fund and used, upon appropriation, for specified purposes. The bill would require the Judicial Council, beginning July 1, 2011, to allocate funding for services that were previously funded by revenue received from providing telephone appearances in an amount not greater than the amount of revenue that court received for providing telephone appearances in the 2007–08 fiscal year. Certain of these provisions would become operative only if SB 1407 of the 2007–08 Regular Session is enacted and becomes operative on or before January 1, 2009.

(3) Existing law requires that, when a witness is incapable of understanding the English language or is incapable of expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter be sworn to interpret for him or her.

This bill would require the Judicial Council, by September 1, 2009, to establish a working group to review, identify, and develop best practices to provide interpreters in civil actions and proceedings, as specified. The bill would require the Judicial Council to select up to 5 courts to participate in a pilot project, to commence on July 1, 2010, and end on June 30, 2013, to provide interpreters in civil proceedings.

(4) Existing law requires the Judicial Council to conduct a study of language and interpreter use and need in court proceedings, with commentary, and to report its findings and recommendations to the Governor and to the Legislature every 5 years. Existing law requires that this study serve as the basis for determining the need to establish interpreter programs and certification and establishing these programs and examinations through the normal budgetary process.

This bill would require, in addition, that the study described above serve as the basis of determining the need for and use of interpreters in civil and criminal court proceedings. The bill would require trial courts to collect and report the use of interpreters in all criminal and civil proceedings in the manner specified by the Judicial Council.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) California is emblematic of the American dream, a place of
4 stunning natural beauty, a seat of international commerce, and a
5 land of unparalleled opportunity. As a result, California is the most
6 populous and demographically diverse state in the nation, a meeting
7 place of cultures, ethnicities, and ideas unlike any other in the
8 world. Of the state's 34 million people, about 26 percent (roughly
9 8.8 million people) are foreign born. Californians speak more than
10 220 languages, and 40 percent of the state's population speaks a
11 language other than English in the home. This extraordinary
12 diversity is among the state's greatest assets and has helped make
13 California an international leader in business, the arts,
14 entertainment, engineering, medicine, and other fields. The state's
15 diversity also poses unique challenges for the delivery of
16 government services, particularly for the courts.

17 (b) For Californians not proficient in English, the prospect of
18 navigating the legal system is daunting, especially for the growing
19 number of parties who do not have access to legal services and
20 therefore have no choice but to represent themselves in court,
21 which is a virtually impossible task for people who are unable to
22 understand the proceedings. Nearly seven million Californians
23 cannot access the courts without significant language assistance,
24 cannot understand pleadings, forms, or other legal documents,
25 cannot communicate with clerks or court staff, and cannot
26 understand or participate meaningfully in court proceedings, much
27 less effectively present their cases without a qualified interpreter.
28 People with limited English proficiency are also often members
29 of groups whose cultural traits or economic circumstances make
30 them more likely to be subjected to legal problems, in part because

1 perpetrators recognize their victims' limited ability to access
2 judicial protection. It is essential to provide English learners and
3 other non-English-speaking litigants with interpreters in order to
4 provide full and equal access to our justice system without regard
5 to language.

6 (c) The Legislature has previously recognized that the number
7 of persons with limited English proficiency in California is
8 increasing and recognized the need to provide equal justice under
9 the law to all California residents and to provide for their special
10 needs in their relations with the judicial and administrative law
11 system. The Legislature has likewise recognized that the effective
12 maintenance of a democratic society depends on the right and
13 ability of its residents to communicate with their government and
14 the right and ability of the government to communicate with them.

15 (d) Inadequate resources to assist litigants with limited English
16 proficiency affect the court's ability to function properly, causing
17 delays in proceedings for all court users, inappropriate defaults,
18 and faulty interpretation that can ultimately subvert justice. Court
19 interpreter services are a core court function. Our judicial system
20 relies on the adversarial process in which neutral arbiters decide
21 disputes based upon competing presentations of facts and law.
22 Conducting court proceedings when one party is incapable of fully
23 participating significantly impairs the quality and efficiency of the
24 process and its results, including compliance with court orders.
25 The courts have made significant efforts to assist litigants with
26 limited English proficiency, including steps to increase the number
27 of certified and registered interpreters and to provide interpreters
28 in civil cases, if resources are available. Nevertheless, court
29 proceedings are required to be conducted in English, and most
30 crucial court forms and documents are available only in English,
31 while the number of skilled interpreters has actually declined over
32 the past decade and the number of persons requiring interpreter
33 services has increased. As a result, a qualified interpreter is not
34 provided in most civil proceedings.

35 (e) The inability to respond to the language needs of parties in
36 court impairs trust and confidence in the judicial system and
37 undermines efforts to secure justice for all. The authority of the
38 courts depends on public perceptions of fairness and accessibility.
39 Any significant erosion of public trust and confidence in the
40 fairness of judicial outcomes threatens the future legitimacy of the

1 legal system. By excluding a large segment of the population from
2 participation in an institution that shapes and reflects our values,
3 we threaten the integrity of the judicial process. Resentment
4 fostered by the inability to access the benefits of the court system
5 can ultimately impair enforcement of judicial decrees and attenuate
6 the rule of law.

7 (f) Reliance on untrained interpreters, such as family members
8 or children, can lead to faulty translations and threaten the court's
9 ability to ensure justice. Court interpretation is extremely difficult
10 and takes a rare combination of skills, experience, and training.
11 Apart from the possibility of fraud, unqualified interpreters often
12 fail to accurately and comprehensively convey questions and distort
13 testimony by omitting or adding information, or by stylistically
14 altering the tone and intent of the speaker, thereby preventing
15 courts from hearing the testimony properly. These problems
16 compromise the factfinding process and can result in genuine
17 injustice.

18 (g) An overwhelming number of Californians believe that
19 interpreters should be made available to assist non-English speakers
20 in all court proceedings, and that interpreters should be provided
21 free of charge to low-income non-English speakers.

22 (h) California law currently mandates appointment of an
23 interpreter for all witnesses in civil cases, and for parties with
24 hearing impairments. In addition, California statutes mandate the
25 appointment of an interpreter in adjudicative proceedings before
26 state agencies, boards, and commissions at no charge to the parties
27 whenever a party or the party's witness does not proficiently speak
28 or understand English. Other states, by contrast, provide both
29 witnesses and parties with a right to a court-appointed interpreter
30 in all civil matters at no cost to the party.

31 SEC. 2. It is the intent of the Legislature to encourage the
32 provision of pro bono legal services and financial support of
33 nonprofit legal organizations that provide free legal services to
34 underserved communities.

35 SEC. 3. Article 9.6 (commencing with Section 6159.5) is added
36 to Chapter 4 of Division 3 of the Business and Professions Code,
37 to read:

1 Article 9.6. Legal Aid Organizations

2
3 6159.5. The Legislature hereby finds and declares all of the
4 following:

5 (a) Legal aid programs provide a valuable service to the public
6 by providing free legal services to the poor.

7 (b) Private, for-profit organizations that have no lawyers have
8 been using the name “legal aid” in order to obtain business from
9 people who believe they are obtaining services from a nonprofit
10 legal aid organization.

11 (c) Public opinion research has shown that the term “legal aid”
12 is commonly understood by the public to mean free legal assistance
13 for the poor.

14 (d) Members of the public seeking free legal assistance are often
15 referred by telephone and other directory assistance information
16 providers to for-profit organizations that charge a fee for their
17 services, and there are a large number of listings in many telephone
18 directories for “legal aid” that are not nonprofit but are actually
19 for-profit organizations.

20 (e) The Los Angeles Superior Court has held that there is a
21 common law trademark on the name “legal aid,” which means
22 legal services for the poor provided by a nonprofit organization.

23 (f) The public will be benefited if for-profit organizations are
24 prohibited from using the term “legal aid,” in order to avoid
25 confusion.

26 6159.51. For purposes of this article, “legal aid organization”
27 means a nonprofit organization that provides civil legal services
28 for the poor without charge.

29 6159.52. It is unlawful for any person or organization to use
30 the term “legal aid,” “legal aide,” or any variant or similar name
31 in any firm name, trade name, fictitious business name, or any
32 other designation, or on any advertisement, letterhead, business
33 card, or sign, unless the person or organization is a legal aid
34 organization.

35 6159.53. (a) Any consumer injured by a violation of Section
36 6159.52 may file a complaint and seek injunctive relief, restitution,
37 and damages in the superior court of any county in which the
38 defendant maintains an office, advertises, or is listed in a telephone
39 directory.

1 (b) A person who violates Section 6159.52 shall be subject to
2 an injunction against further violation of Section 6159.52 by any
3 legal aid organization that maintains an office in any county in
4 which the defendant maintains an office, advertises, or is listed in
5 a telephone directory. In an action under this subdivision, it is not
6 necessary to allege or prove actual damage to the plaintiff, and
7 irreparable harm and interim harm to the plaintiff shall be
8 presumed.

9 (c) Reasonable ~~Attorney's~~ *attorney's* fees shall be awarded to
10 the prevailing plaintiff in any action under this section.

11 ~~SEC. 4. Section 755.1 is added to the Evidence Code, to read:~~

12 ~~755.1. (a) In any civil action or proceeding in those specified~~
13 ~~counties to be determined by the Judicial Council as provided in~~
14 ~~subdivision (c) of Section 755.2, including, but not limited to, any~~
15 ~~family court proceeding, any proceeding to determine the mental~~
16 ~~competency of a person, or any court-ordered or court-provided~~
17 ~~alternative dispute resolution, including mediation and arbitration,~~
18 ~~in which a party does not proficiently speak or understand the~~
19 ~~English language, and that party is present, an interpreter shall be~~
20 ~~present to interpret the proceedings in a language that the party~~
21 ~~understands and to assist communication between the party and~~
22 ~~his or her attorney or the court. This section does not apply to any~~
23 ~~arbitration ordered by the court under Title 9 (commencing with~~
24 ~~Section 1280), Title 9.1 (commencing with Section 1295), Title~~
25 ~~9.2 (commencing with Section 1296), Title 9.3 (commencing with~~
26 ~~Section 1297.11), Title 9.4 (commencing with Section 1298), or~~
27 ~~Title 9.5 (commencing with Section 1299), of Part 3 of the Code~~
28 ~~of Civil Procedure. Notwithstanding this requirement, a court may~~
29 ~~issue an ex parte order pursuant to Sections 2045 and 7710 of, and~~
30 ~~Article 1 (commencing with Section 6320) of Chapter 2 of Part 4~~
31 ~~of Division 10 of, the Family Code, without the presence of an~~
32 ~~interpreter. Unless a party has notified the court that he or she has~~
33 ~~made arrangements for a private interpreter, the court shall provide~~
34 ~~the interpreter. The interpreter shall be certified pursuant to Article~~
35 ~~4 (commencing with Section 68560) of Chapter 2 of Title 8 of the~~
36 ~~Government Code, except as provided in subdivision (c) of Section~~
37 ~~68561 of the Government Code.~~

38 ~~(b) (1) Notwithstanding Section 68092 of the Government~~
39 ~~Code, fees of interpreters utilized under this section shall be paid~~
40 ~~by the court.~~

1 ~~(2) If sufficient funds are not available pursuant to the model~~
2 ~~pilot program specified in subdivision (c) of Section 755.2, or~~
3 ~~otherwise provided to meet the needs for court interpreters in all~~
4 ~~civil actions and proceedings, or if after diligent search a sufficient~~
5 ~~number of interpreters is not available for all civil actions and~~
6 ~~proceedings, interpreters shall be assigned in the following order~~
7 ~~of priority, subject to any rules that the Judicial Council may adopt~~
8 ~~to implement the priority guidelines in this section so as to ensure~~
9 ~~that court interpreters are provided in civil matters consistently~~
10 ~~with sound and efficient court administration and prudent personnel~~
11 ~~practices:~~

12 ~~(A) Parties appearing in forma pauperis or whom the court~~
13 ~~otherwise determines are financially unable to pay the cost of an~~
14 ~~interpreter in the following order of precedence by case type:~~

15 ~~(i) Actions and proceedings under Section 527.6 of the Code~~
16 ~~of Civil Procedure or under Division 10 (commencing with Section~~
17 ~~6200) of the Family Code.~~

18 ~~(ii) Actions and proceedings under the Uniform Parentage Act~~
19 ~~(Part 3 (commencing with Section 7600) of Division 12 of the~~
20 ~~Family Code) and actions and proceedings under Part 4~~
21 ~~(commencing with Section 7800) of Division 12 of the Family~~
22 ~~Code.~~

23 ~~(iii) Actions and proceedings for dissolution or nullity of~~
24 ~~marriage or legal separation of the parties in which a protective~~
25 ~~order has been granted or is being sought pursuant to Section 6221~~
26 ~~of the Family Code or a protective order has been granted or is~~
27 ~~being sought pursuant to Section 136.2 or pursuant to paragraph~~
28 ~~(2) of subdivision (a) of Section 1203.097 of the Penal Code.~~

29 ~~(iv) Actions and proceedings involving the appointment or~~
30 ~~termination of a probate guardian under Part 2 of Division 4~~
31 ~~(commencing with Section 1500) of the Probate Code.~~

32 ~~(v) Actions and proceedings relating to unlawful detainer.~~

33 ~~(vi) Actions and proceedings under the Elder Abuse and~~
34 ~~Dependent Adult Civil Protection Act (Chapter 11 (commencing~~
35 ~~with Section 15600) of Part 3 of Division 9 of the Welfare and~~
36 ~~Institutions Code).~~

37 ~~(vii) Actions and proceedings involving the appointment of a~~
38 ~~guardian or conservator.~~

39 ~~(viii) Actions and proceedings with respect to claims alleging~~
40 ~~violation of civil rights.~~

1 ~~(ix) Other actions and proceedings in family court.~~

2 ~~(x) Other actions and proceedings in probate court.~~

3 ~~(xi) Other limited civil actions and proceedings.~~

4 ~~(xii) Other unlimited civil actions and proceedings.~~

5 ~~(B) Parties appearing in propria persona.~~

6 ~~(C) All other parties.~~

7 ~~(3) When a court-provided interpreter is assigned to interpret~~
8 ~~for a party, an interpreter shall also be provided to any witness~~
9 ~~called by that party.~~

10 ~~(4) If a party is charged a fee specifically for interpreter services~~
11 ~~because sufficient funding or number of interpreters is not available~~
12 ~~to assign a court-provided interpreter, any fees for the interpreter~~
13 ~~shall be waived for a party who needs an interpreter for himself~~
14 ~~or herself, or for a witness called by that party, and appears in~~
15 ~~forma pauperis pursuant to Section 68511.3 of the Government~~
16 ~~Code. If a party whose fees have been waived prevails in the action~~
17 ~~or proceeding or obtains a monetary settlement of his or her claims,~~
18 ~~the court may assess the amount of the waived fees either against~~
19 ~~that party in any manner the court believes is compatible with the~~
20 ~~party's financial ability, or assess those fees against another party~~
21 ~~against whom the party whose fees and costs have been waived~~
22 ~~would have been entitled to recover those fees had they not been~~
23 ~~waived, and may order the other party to pay that sum to the court~~
24 ~~or to the clerk and serving and levying officers respectively or~~
25 ~~order the amount of the waived fees to be added to the judgment~~
26 ~~and so identified by the clerk.~~

27 ~~(5) This section shall not be construed to negate or limit any~~
28 ~~right to an interpreter in a civil action or proceeding otherwise~~
29 ~~provided by state or federal law.~~

30 ~~(e) Except as provided in paragraph (3) of subdivision (b), in~~
31 ~~any civil action in which an interpreter is required and provided~~
32 ~~under this section, the court shall not commence proceedings until~~
33 ~~the appointed interpreter is present and situated near the party and~~
34 ~~his or her attorney. However, this section shall not prohibit the~~
35 ~~court from doing either of the following:~~

36 ~~(1) Issuing an order when the necessity for the order outweighs~~
37 ~~the necessity for an interpreter.~~

38 ~~(2) Extending the duration of a previously issued temporary~~
39 ~~order if an interpreter is not readily available.~~

1 ~~(d) This section does not prohibit the presence of any other~~
2 ~~person to assist a party.~~

3 ~~(e) The Judicial Council shall draft rules and modify forms~~
4 ~~necessary to implement this section, including those for the petition~~
5 ~~for a temporary restraining order and related forms, to inform both~~
6 ~~parties of their right to an interpreter pursuant to this section.~~

7 ~~(f) This section shall not be construed to alter the right of an~~
8 ~~individual to an interpreter in criminal, traffic or other infraction;~~
9 ~~juvenile, or mental competency actions or proceedings.~~

10 ~~(g) New appointments of court interpreters in civil matters~~
11 ~~pursuant to this section shall not result in a reduction in staffing~~
12 ~~or compromise the quality of service in criminal, juvenile, or other~~
13 ~~types of matters in which appointments have been made.~~

14 ~~SEC. 5. Section 755.2 is added to the Evidence Code, to read:~~

15 ~~755.2. (a) The Judicial Council shall conduct a study of the~~
16 ~~need for court interpreters in civil proceedings and the extent to~~
17 ~~which the need for interpreters is being met pursuant to Section~~
18 ~~755.1 and shall report its findings and recommendations to the~~
19 ~~Governor and the Legislature on or before March 1, 2011, and~~
20 ~~every three years thereafter. The study shall include data showing,~~
21 ~~by court, the languages for which parties and witnesses in civil~~
22 ~~matters need a court-provided interpreter according to type of~~
23 ~~action or proceeding and whether the party appears in propria~~
24 ~~persona or in forma pauperis, as well as the extent to which each~~
25 ~~of these needs is met by court employees or independent~~
26 ~~contractors, certified or registered interpreters or, if not by a~~
27 ~~certified or registered interpreter, then the type of case, location,~~
28 ~~and language for which the noncertified interpreter was appointed,~~
29 ~~that person's qualifications to interpret, and the circumstances~~
30 ~~warranting good cause for appointment of a noncertified interpreter;~~
31 ~~the amounts expended for each according to court, type of party,~~
32 ~~and type of action or proceeding; the cost of failing to provide~~
33 ~~interpreters in civil matters, including delays, continuances, faulty~~
34 ~~interpretation, inappropriate defaults, and failure to comply with~~
35 ~~court orders or instructions; and the fees apportioned and collected~~
36 ~~from parties pursuant to paragraph (4) of subdivision (b) of Section~~
37 ~~755.1. The report shall include findings and recommendations~~
38 ~~regarding the need for additional interpreters and interpreter~~
39 ~~compensation, whether the availability of interpreters or the~~
40 ~~assessment of party fees has an impact on equal access to justice,~~

1 and the effect of court interpreters on court administration and
2 efficiency, including reduced courtroom time for hearings,
3 increased compliance with orders and court schedules, reduced
4 case delays, and enhanced coordination between courts and
5 culturally relevant services in the community.

6 (b) ~~The Judicial Council shall adopt training guidelines so that~~
7 ~~each trial court in the specified counties as determined by the~~
8 ~~Judicial Council pursuant to subdivision (c), in consultation with~~
9 ~~the exclusive representative of interpreters, ensures that court~~
10 ~~interpreters receive any training necessary to comply with the~~
11 ~~requirements of Section 755.1. Training activities may include,~~
12 ~~but are not limited to, video broadcasts, Internet-based training,~~
13 ~~and dissemination of written materials.~~

14 (c) ~~The Judicial Council shall develop an implementation plan~~
15 ~~for providing court interpreters in civil matters not currently served,~~
16 ~~taking into account available resources. Subject to funding~~
17 ~~specifically provided for this purpose, the Judicial Council shall~~
18 ~~develop a model pilot program for purposes of Section 755.1 in~~
19 ~~selected counties pursuant to a competitive grant process and a~~
20 ~~request for proposals, with priority for unmet needs in types of~~
21 ~~case and geographic areas with high concentrations of~~
22 ~~limited-English-proficient parties and multiple language needs.~~
23 ~~The counties shall be selected by a committee appointed by the~~
24 ~~Judicial Council with representation from key stakeholder groups,~~
25 ~~such as judicial officers, court interpreters, legal services providers,~~
26 ~~and organizations representing individuals with limited English~~
27 ~~proficiency. The committee shall assess applicants' capacity for~~
28 ~~success, innovation, and efficiency, including, but not limited to,~~
29 ~~strategies for collaborating with organizations representing~~
30 ~~stakeholders, utilizing local resources, and methods for addressing~~
31 ~~the availability of qualified interpreters, as well as enhancing~~
32 ~~recruitment, development, and retention of certified interpreters,~~
33 ~~particularly for those languages with a shortage of certified~~
34 ~~interpreters in the service area.~~

35 *SEC. 4. Section 367.6 is added to the Code of Civil Procedure,*
36 *to read:*

37 *367.6. (a) On or before June 30, 2009, and periodically as*
38 *appropriate, the Judicial Council shall enter into one or more*
39 *master agreements with a vendor or vendors to provide for*

1 *telephone appearances in civil cases under Section 367.5, or as*
2 *otherwise permitted by law.*

3 *(b) Each master agreement shall include the following terms:*

4 *(1) The vendor shall charge a party for an appearance an*
5 *amount set by the Judicial Council, which shall comply with the*
6 *provisions of subdivision (c).*

7 *(2) The vendor shall indemnify and hold the court harmless*
8 *from claims arising from a failure or interruption of service.*

9 *(3) Except as provided by paragraph (2) of subdivision (c), for*
10 *each appearance a party makes by telephone, the vendor shall pay*
11 *to the state twenty dollars (\$20) which shall be transmitted*
12 *quarterly to be deposited in the Trial Court Trust Fund and used,*
13 *upon appropriation, as follows:*

14 *(A) Fifteen dollars (\$15) of each twenty dollars (\$20) shall be*
15 *used by the Judicial Council for the expenses of the Judicial*
16 *Council in implementing and administering the civil interpreter*
17 *pilot program under Sections 755.1 and 755.2 of the Evidence*
18 *Code and for reimbursement to those courts providing civil*
19 *interpreters pursuant to those sections.*

20 *(B) The remaining five dollars (\$5) of each twenty dollars (\$20)*
21 *shall be allocated to courts, until July 1, 2011, for the following*
22 *purposes:*

23 *(i) The funds shall be used first to offset any otherwise*
24 *unreimbursed expenses, as proven to the Judicial Council, in*
25 *providing for telephone appearances.*

26 *(ii) The funds shall next be used to provide funding to prevent*
27 *significant disruption in services in courts where those services*
28 *were previously funded by revenue received from providing*
29 *telephone appearances. The amount provided to any court pursuant*
30 *to this paragraph shall not exceed the amount of revenue received*
31 *by that court for providing telephone appearances for the 2007–08*
32 *fiscal year. The authority to provide this funding shall expire on*
33 *June 30, 2011.*

34 *(iii) Any remaining funds shall be allocated by the Judicial*
35 *Council to implement those Judicial Council priorities providing*
36 *increased access to, efficiency, and accountability in the courts.*

37 *(C) Beginning July 1, 2011, the remaining five dollars (\$5) of*
38 *each twenty dollars (\$20) shall be deposited in the State Court*
39 *Facilities Construction Fund, established in Section 70371 of the*
40 *Government Code.*

1 (4) *The master agreement shall include other terms as the*
2 *Judicial Council deems appropriate. These terms may include, but*
3 *are not limited to, a provision providing the circumstances in which*
4 *the charge shall be made for a telephone appearance canceled by*
5 *the party.*

6 (c) *The amount the vendor shall charge a party for an*
7 *appearance shall be uniform statewide.*

8 (1) *The Judicial Council shall establish the amount to be*
9 *charged a party for an appearance.*

10 (2) *If the party has received a waiver of fees under Section*
11 *68511.3 of the Government Code, the vendor shall not charge that*
12 *party for an appearance and shall not pay twenty dollars (\$20) as*
13 *otherwise required by paragraph (3) of subdivision (b). The vendor*
14 *shall be granted a lien in the amount of the waived charge on any*
15 *judgment that the party may receive. If the vendor later receives*
16 *the amount previously waived, for each appearance for which the*
17 *vendor receives payment, the vendor shall transmit twenty dollars*
18 *(\$20) to the state for deposit as provided in paragraph (3) of*
19 *subdivision (b). If the charge has been waived in part, or the*
20 *amount recovered by the vendor is not the full amount, the amount*
21 *transmitted to the state shall be reduced proportionally.*

22 (3) *The Judicial Council may establish an additional amount*
23 *to be charged, which shall also be uniform statewide, when a party*
24 *requests service from a vendor within a short period of time prior*
25 *to the hearing, as determined by the Judicial Council.*

26 (d) *If a court elects to make telephone appearances available*
27 *through one or more vendors, the court shall enter into one or*
28 *more participation agreements under one or more of the master*
29 *agreements entered into by the Judicial Council.*

30 (e) *If a court elects to provide telephone appearance services*
31 *to parties directly, either in addition to or in lieu of a participation*
32 *agreement, the court shall charge a party no more than the same*
33 *amount that a vendor may charge under the master agreements*
34 *provided for in subdivision (a), subject to the same conditions,*
35 *waivers, and transmission of amounts to the state as apply to a*
36 *vendor.*

37 (f) *Notwithstanding any other provision in this section, a judicial*
38 *officer is authorized to allow the appearance by telephone of*
39 *parties in that judicial officer's courtroom without the requirement*

1 of using a vendor or paying any amount for the appearance by
2 telephone.

3 (g) To prevent significant disruptions in those services in courts
4 that were previously funded by revenue received from providing
5 telephone appearances, the Judicial Council shall, beginning July
6 1, 2011, allocate funding in an amount not greater than the amount
7 of revenue that court received for providing telephone appearances
8 in the 2007–08 fiscal year.

9 SEC. 4.5. Section 367.6 is added to the Code of Civil
10 Procedure, to read:

11 367.6. (a) On or before June 30, 2009, and periodically as
12 appropriate, the Judicial Council shall enter into one or more
13 master agreements with a vendor or vendors to provide for
14 telephone appearances in civil cases under Section 367.5, or as
15 otherwise permitted by law.

16 (b) Each master agreement shall include the following terms:

17 (1) The vendor shall charge a party for an appearance an
18 amount set by the Judicial Council, which shall comply with the
19 provisions of subdivision (c).

20 (2) The vendor shall indemnify and hold the court harmless
21 from claims arising from a failure or interruption of service.

22 (3) Except as provided by paragraph (2) of subdivision (c), for
23 each appearance a party makes by telephone, the vendor shall pay
24 to the state twenty dollars (\$20) which shall be transmitted
25 quarterly to be deposited in the Trial Court Trust Fund and used,
26 upon appropriation, as follows:

27 (A) Fifteen dollars (\$15) of each twenty dollars (\$20) shall be
28 used by the Judicial Council for the expenses of the Judicial
29 Council in implementing and administering the civil interpreter
30 pilot program under Sections 755.1 and 755.2 of the Evidence
31 Code and for reimbursement to those courts providing civil
32 interpreters pursuant to those sections.

33 (B) The remaining five dollars (\$5) of each twenty dollars (\$20)
34 shall be allocated to courts, until July 1, 2011, for the following
35 purposes:

36 (i) The funds shall be used first to offset any otherwise
37 unreimbursed expenses, as proven to the Judicial Council, in
38 providing for telephone appearances.

39 (ii) The funds shall next be used to provide funding to prevent
40 significant disruption in services in courts where those services

1 were previously funded by revenue received from providing
2 telephone appearances. The amount provided to any court pursuant
3 to this paragraph shall not exceed the amount of revenue received
4 by that court for providing telephone appearances for the 2007–08
5 fiscal year. The authority to provide this funding shall expire on
6 June 30, 2011.

7 (iii) Any remaining funds shall be allocated by the Judicial
8 Council to implement those Judicial Council priorities providing
9 increased access to, efficiency, and accountability in the courts.

10 (C) Beginning July 1, 2011, the remaining five dollars (\$5) of
11 each twenty dollars (\$20) shall be deposited in the Immediate and
12 Critical Needs Account of the State Court Facilities Construction
13 Fund, established in Section 70371.5 of the Government Code.

14 (4) The master agreement shall include other terms as the
15 Judicial Council deems appropriate. These terms may include, but
16 are not limited to, a provision providing the circumstances in which
17 the charge shall be made for a telephone appearance canceled by
18 the party.

19 (c) The amount the vendor shall charge a party for an
20 appearance shall be uniform statewide.

21 (1) The Judicial Council shall establish the amount to be
22 charged a party for an appearance.

23 (2) If the party has received a waiver of fees under Section
24 68511.3 of the Government Code, the vendor shall not charge that
25 party for an appearance and shall not pay twenty dollars (\$20) as
26 otherwise required by paragraph (3) of subdivision (b). The vendor
27 shall be granted a lien in the amount of the waived charge on any
28 judgment that the party may receive. If the vendor later receives
29 the amount previously waived, for each appearance for which the
30 vendor receives payment, the vendor shall transmit twenty dollars
31 (\$20) to the state for deposit as provided in paragraph (3) of
32 subdivision (b). If the charge has been waived in part, or the
33 amount recovered by the vendor is not the full amount, the amount
34 transmitted to the state shall be reduced proportionally.

35 (3) The Judicial Council may establish an additional amount
36 to be charged, which shall also be uniform statewide, when a party
37 requests service from a vendor within a short period of time prior
38 to the hearing, as determined by the Judicial Council.

39 (d) If a court elects to make telephone appearances available
40 through one or more vendors, the court shall enter into one or

1 *more participation agreements under one or more of the master*
2 *agreements entered into by the Judicial Council.*

3 *(e) If a court elects to provide telephone appearance services*
4 *to parties directly, either in addition to or in lieu of a participation*
5 *agreement, the court shall charge a party no more than the same*
6 *amount that a vendor may charge under the master agreements*
7 *provided for in subdivision (a), subject to the same conditions,*
8 *waivers, and transmission of amounts to the state as apply to a*
9 *vendor.*

10 *(f) Notwithstanding any other provision in this section, a judicial*
11 *officer is authorized to allow the appearance by telephone of*
12 *parties in that judicial officer's courtroom without the requirement*
13 *of using a vendor or paying any amount for the appearance by*
14 *telephone.*

15 *(g) To prevent significant disruptions in those services in courts*
16 *that were previously funded by revenue received from providing*
17 *telephone appearances, the Judicial Council shall, beginning July*
18 *1, 2011, allocate funding for those services in an amount not*
19 *greater than the amount of revenue that court received for*
20 *providing telephone appearances in the 2007–08 fiscal year.*

21 *SEC. 5. Section 756 is added to the Evidence Code, to read:*

22 *756. (a) On or before September 1, 2009, the Judicial Council*
23 *shall establish a working group to review, identify, and develop*
24 *best practices to provide interpreters in civil actions and*
25 *proceedings. The best practices developed by the working group*
26 *shall be used in carrying out the pilot project described in Section*
27 *756.5. In developing the best practices, the working group shall*
28 *consider ways to maximize the use of existing resources,*
29 *calendar issues, the effective use of technology, and other*
30 *practices that will assist courts effectively deploying interpreters*
31 *in civil proceedings.*

32 *(b) The working group shall include court executive officers,*
33 *presiding judges, interpreter coordinators, interpreters,*
34 *representatives of legal services organizations and organizations*
35 *representing individuals with limited English proficiency, and*
36 *others the Judicial Council determines necessary.*

37 *SEC. 6. Section 756.5 is added to the Evidence Code, to read:*

38 *756.5. (a) The Judicial Council shall select up to five courts*
39 *to participate in a pilot project, which shall commence on July 1,*
40 *2010, and end on June 30, 2013, to provide interpreters in civil*

1 *proceedings as specified in this section. The pilot courts shall be*
2 *selected from among those participating in the working group*
3 *described in Section 756.*

4 *(b) The pilot project shall be conducted for the purpose of*
5 *creating models for effectively providing interpreters in civil*
6 *matters, implementing best practices, and ascertaining the need*
7 *for additional interpreter resources and funding to provide*
8 *interpreters in civil matters on a statewide basis.*

9 *(c) Interpreters shall be provided by the pilot courts as follows:*

10 *(1) The pilot courts shall provide interpreters to any party*
11 *proceeding in forma pauperis, pursuant to Section 68511.3 of the*
12 *Government Code, who is present and who does not proficiently*
13 *speak or understand the English language for the purpose of*
14 *interpreting the proceedings in a language that the party*
15 *understands and assisting communications between the party and*
16 *the court in the following types of actions and proceedings:*

17 *(A) Actions and proceedings under Section 527.6 of the Code*
18 *of Civil Procedure that are also under Division 10 (commencing*
19 *with Section 6200) of the Family Code.*

20 *(B) Actions and proceedings brought under the Family Code.*

21 *(C) Actions and proceedings relating to unlawful detainer.*

22 *(D) Actions and proceedings involving the appointment or*
23 *termination of a probate guardian or conservator.*

24 *(E) Actions or proceedings under the Elder Abuse and*
25 *Dependent Adult Civil Protection Act (Chapter 11 (commencing*
26 *with Section 15600) of Part 3 of Division 9 of the Welfare and*
27 *Institutions Code).*

28 *(2) The pilot courts shall provide interpreters in other civil*
29 *actions or proceedings or in matters in which the party is not*
30 *appearing in forma pauperis if there is sufficient funding and*
31 *interpreter resources available to meet all the interpretation needs*
32 *in actions and proceedings described in paragraph (1).*

33 *(3) The fees of interpreters utilized under this section shall be*
34 *paid for any party proceeding in forma pauperis pursuant to*
35 *Section 68511.3 of the Government Code.*

36 *(4) The pilot courts shall develop a methodology for providing*
37 *interpreters if sufficient funds are not available to meet the needs*
38 *for court interpreters in all of the actions and proceedings set forth*
39 *in paragraph (1), or if, after diligent search, a sufficient number*
40 *of interpreters are not available. The pilot courts shall not consider*

1 *the order in which the case types are listed in paragraph (1) in*
2 *developing this methodology. For purposes of developing this*
3 *methodology, the pilot courts shall consider the most effective way*
4 *to deploy limited resources.*

5 *(5) Subdivisions (c) and (d) of Section 755 of the Evidence Code*
6 *shall apply to proceedings described in this section.*

7 *(6) The pilot courts may utilize technological solutions to*
8 *address the need for providing court interpreters when there are*
9 *not sufficient interpreters available in the pilot court to meet the*
10 *need.*

11 *(d) This section shall not be construed to negate or limit any*
12 *right to an interpreter in a civil action or proceeding otherwise*
13 *provided by state or federal law.*

14 *(e) This section shall not be construed to alter the right of an*
15 *individual to an interpreter in criminal, traffic or other infraction,*
16 *juvenile, or mental competency actions or proceedings.*

17 *(f) This section shall not result in a reduction in staffing or*
18 *compromise the quality of interpreting services in criminal,*
19 *juvenile, or other types of matters in which interpreters are*
20 *provided.*

21 *(g) (1) On or before September 1, 2012, the Judicial Council*
22 *shall report to the Legislature its findings and recommendations*
23 *based on the experiences of the pilot project. The report shall*
24 *include findings and recommendations regarding the need for*
25 *additional interpreter resources and funding to provide interpreters*
26 *in both of the following:*

27 *(A) Case types that were the subject of the pilot.*

28 *(B) All civil actions and proceedings.*

29 *(2) The report shall also describe, to the extent possible, the*
30 *impact of the availability of interpreters on access to justice and*
31 *on court administration and efficiency.*

32 *SEC. 7. Section 68563 of the Government Code is amended to*
33 *read:*

34 *68563. (a) The Judicial Council shall conduct a study of*
35 *language and interpreter use and need in court proceedings, with*
36 *commentary, and shall report its findings and recommendations*
37 *to the Governor and to the Legislature not later than July 1, 1995,*
38 *and every five years thereafter. The*

39 *(b) (1) The study shall serve as a basis for ~~(1) determining~~ all*
40 *of the following:*

1 (A) *Determining* the need to establish interpreter programs and
2 certification examinations, ~~and (2) establishing.~~

3 (B) *Establishing* these programs and examinations through the
4 normal budgetary process. ~~The~~

5 (C) *Determining the need for and use of interpreters in civil*
6 *and criminal court proceedings.*

7 (2) *To assist with the completion of the study, trial courts shall*
8 *collect and report the use of interpreters in all criminal and civil*
9 *proceedings in the manner specified by the Judicial Council,*
10 *including, but not limited to, the following data:*

11 (A) *The languages for which parties need an interpreter, by*
12 *type of action or proceeding, and whether the party is appearing*
13 *in propria persona or in forma pauperis.*

14 (B) *The languages for which an interpreter is provided, by type*
15 *of action or proceeding, and whether the party is appearing in*
16 *propria persona or in forma pauperis.*

17 (C) *The extent to which the interpreters provided are court*
18 *employees or independent contractors.*

19 (D) *The extent to which interpreters are appointed pursuant to*
20 *subdivision (c) of Section 68561.*

21 (E) *The extent to which interpreters are provided pursuant to*
22 *subdivision (d) of Section 68561.*

23 (c) *The study shall also serve as a basis for* ~~(1) determining both~~
24 *of the following:*

25 (1) *Determining* ways in which the Judicial Council can make
26 available to the public, through public service announcements and
27 otherwise, information relating to opportunities, requirements,
28 testing, application procedures, and employment opportunities for
29 interpreters, ~~and (2) establishing.~~

30 (2) *Establishing* and evaluating these programs through the
31 normal budgetary process.

32 *SEC. 8. Section 4.5 of this bill shall become operative only if*
33 *SB 1407 of the 2007–08 Regular Session is enacted and becomes*
34 *operative on or before January 1, 2009, in which case Section 4*
35 *of this bill shall not become operative.*