

Assembly Bill No. 1127

Passed the Assembly September 11, 2013

Chief Clerk of the Assembly

Passed the Senate September 11, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Sections 756 and 756.5 of the Evidence Code and Section 68567 of the Government Code, relating to legal services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1127, Chau. Legal aid: court interpreters.

Existing law requires, when a witness is incapable of understanding the English language or expressing himself or herself in the English language so as to be understood directly by counsel, court, and jury, an interpreter to be sworn to interpret for him or her. 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 for establishing these programs and examinations through the normal budgetary process.

This bill would require the Judicial Council, by March 1, 2014, 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 3 courts to participate in a pilot project, to commence on July 1, 2014, to provide interpreters in civil proceedings and would require the Judicial Council to report to the Legislature findings related to the pilot project by July 1, 2018. The pilot project would be funded by an amount not to exceed \$6 million dollars from the Trial Court Trust Fund, upon allocation by the Judicial Council pursuant to the Judicial Council's existing expenditure authority, or upon appropriation by the Legislature, from unexpended funds previously allocated for court interpreter services. The bill would also require the working group to act as an advisory body to any Judicial Council committee, advisory board, or joint committee charged with developing a comprehensive statewide Language Access Plan (LAP) for use by courts to address the needs of all limited-English-proficient individuals in conformance with state

and federal law. The bill would require the working group to make recommendations relating to the establishment of standards for meaningful and timely provision of language services in all court proceedings and at all public points of contact within the courts, and the establishment of a statewide plan to provide for the translation of court documents using competent and qualified interpreters. The bill would require the Judicial Council and its advisory bodies to submit an interim report to the Legislature on the status of the LAP by September 1, 2014. The bill would repeal these provisions on January 1, 2020.

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

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

(a) California is one of the most linguistically diverse states in the nation. As language diversity continues to increase, there is a greater need to ensure that all Californians have meaningful access to the court system.

(b) There continues to be a need to expand and improve California's ability to provide language assistance within the judicial system.

(c) Currently, California has not developed statewide best practices to address the needs of limited-English-proficient individuals in all court proceedings and at all public points of contact within our courts.

(d) There continues to be a shortage of information and data needed to determine what resources the state needs to provide court interpreters in civil proceedings. In order to plan for the successful implementation of language access services in civil proceedings, information must be gathered on how to maximize the use of existing resources, and the need for language access. A pilot program is the most efficient way to gather information from courts as it relates to interpreter services and language access.

(e) The continuing shortage of certified and registered interpreters for particular languages and various geographic regions of California impacts the state's ability to provide meaningful access to justice for all court users.

SEC. 2. Section 756 is added to the Evidence Code, to read:

756. (a) (1) On or before March 1, 2014, the Judicial Council shall establish a working group to review, identify, and develop best practices to provide interpreters in civil actions and proceedings. The best practices developed by the working group shall be used in carrying out the pilot project described in Section 756.5.

(2) In developing the best practices for the pilot project, the working group shall consider ways to maximize the use of existing resources and other practices that will assist courts to deploy interpreters effectively in civil proceedings.

(3) The best practices shall include training guidelines to be utilized by the courts participating in the pilot project described in Section 756.5 to ensure that court interpreters receive training necessary to comply with the requirements of Section 756.5.

(b) The working group shall include court executive officers, presiding judges, interpreter coordinators, three interpreters who shall be nominated by an exclusive representative of interpreter employees, experts in training and best practices in the field of court interpretation, representatives of legal services organizations, and organizations representing individuals with limited English proficiency, and others that the Judicial Council determines necessary. The working group shall also include a representative from a rural community.

(c) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 3. Section 756.5 is added to the Evidence Code, to read:

756.5. (a) The working group described in Section 756 shall select up to three courts to participate in a pilot project, which shall commence on or before July 1, 2014, to provide interpreters in civil proceedings as specified in this section.

(b) (1) The pilot project shall be conducted for the purpose of creating models for effectively providing interpreters in civil matters and implementing best practices.

(2) The pilot project, including costs of administration and the preparation of the report to the Legislature required in subdivision (h), may be funded by an amount not to exceed six million dollars (\$6,000,000) from the Trial Court Trust Fund, upon allocation by the Judicial Council pursuant to the Judicial Council's existing expenditure authority, or upon appropriation by the Legislature,

from unexpended funds previously allocated for court interpreter services. The costs of administration and the preparation of the report to the Legislature required in subdivision (h) shall not exceed three percent of the total funding allocation.

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

(1) The pilot courts shall provide interpreters to any party in a civil proceeding who is present and who does not proficiently speak or understand the English language for the purpose of interpreting the proceedings in a language that the party understands and assisting communications between the party, his or her attorney, and the court.

(2) If the pilot courts expend more than 75 percent of the funding described in paragraph (2) of subdivision (b) within the first 24 months of the pilot project, pilot courts may prioritize interpreter services in the following types of actions and proceedings, for purposes of this pilot project:

(A) Actions and proceedings under Section 527.6 of the Code of Civil Procedure.

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

(C) Actions and proceedings relating to unlawful detainer.

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

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

(3) The pilot courts shall develop a methodology for deploying available interpreter resources and funds described in subdivision (b) if needed. Pilot courts shall establish protocols to ensure that parties who speak limited or no English and need interpreter services are identified at the earliest point of contact with the court system and informed that interpreter services are available. A pilot court shall not be obligated to provide services under this section that are not funded by this pilot project.

(4) Interpreters shall be certified or registered pursuant to Article 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the Government Code. Subdivisions (c) and (d) of Section 755 shall apply to proceedings described in this section.

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

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

(f) This section shall not be construed to create a right to, or negate or limit a right to, an interpreter in civil proceedings that does not otherwise exist under current state or federal law.

(g) The pilot project shall terminate on July 1, 2017.

(h) (1) On or before July 1, 2018, the Judicial Council shall report to the Legislature the working group's findings and recommendations based on the experiences of the model pilot project.

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

(i) Nothing in this chapter shall limit or restrict courts from providing interpreters in civil proceedings when those services are already being provided or in matters in which the judicial officer deems it necessary to appoint an interpreter.

(j) Nothing in this chapter shall alter or negate the application of the Trial Court Interpreter Employment and Labor Relations Act (Chapter 7.5 (commencing with Section 71800) of Title 8 of the Government Code) to the provision of interpreters pursuant to this section.

(k) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 4. Section 68567 is added to the Government Code, to read:

68567. (a) (1) The working group described in Section 756 of the Evidence Code shall act as an advisory body to any Judicial Council committee, advisory board, or joint committee charged with developing a comprehensive statewide Language Access Plan.

(2) In advising a Judicial Council committee, advisory board, or joint committee, the working group shall make recommendations for all of the following:

(A) Establishing standards for meaningful and timely provision of language services in all court proceedings and at all public points of contact within the courts.

(B) Establishing procedures for gathering comprehensive data on the language access needs of court users, including, but not limited to, providing a means of registering an individual's language needs in court documents. These procedures should provide metrics on the need for interpreter services in court proceedings and ancillary programs and services.

(C) Reviewing current court interpreter procedures and recommending improvements or additional procedures to provide the most competent interpreter services to limited-English-proficient court users and to ensure compliance with Rule 2.890 of the California Rules of Court.

(D) Reviewing current court procedures and recommending improvements or additional procedures to maximize existing language resources, including bilingual staff, court interpreters, translators, and other resources shared among courts to expand access to language services at all public points of contact within the courts.

(E) Reviewing current practices and developing strategies to provide interpreter services that comply with the Trial Court Interpreter Employment and Labor Relations Act (Chapter 7.5 (commencing with Section 71800) of Title 8) in all court proceedings. The review may include the evaluation of any programs providing interpreters in domestic violence cases or other civil cases, including any pilot projects.

(F) Establishing a statewide plan to provide for the translation of court documents using competent and qualified interpreters.

(G) Establishing a plan to provide education and training to judicial officers, court personnel, and court-appointed professionals on the legal requirements for language access, court policies and rules pertaining to language access, language service provider qualifications, ethics pertaining to interpreter services, the effective use of translated court documents, and effective techniques for working with language service providers.

(H) Reviewing and considering the American Bar Association's Standards for Language Access in Courts, as adopted February 2012.

(b) The working group shall be consulted before any committee of the Judicial Council brings recommendations to allocate any surplus funds appropriated for interpreter services or to adopt any policy regarding the reimbursement of the courts for interpreter expenditures from the funds appropriated for that purpose.

(c) On or before September 1, 2014, the Judicial Council and its advisory bodies shall submit an interim report to the Legislature, which shall include the status of its efforts and completion date for the Language Access Plan.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

Approved _____, 2013

Governor