

Introduced by Senator Lara

February 22, 2013

An act to add and repeal Section 756.5 to the Evidence Code, relating to legal services.

LEGISLATIVE COUNSEL'S DIGEST

SB 597, as introduced, Lara. Legal aid: court interpreters.

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 to select up to 5 courts to participate in a pilot project, to commence on July 1, 2014, to provide interpreters in civil proceedings. The bill would provide that the initial pilot courts participate until June 30, 2016, and would require the Judicial Council to consider whether a pilot court should continue participating in the project and whether to select another court or additional courts. The bill would require the Judicial Council, by September 1, 2017, to report to the Legislature its findings and recommendations based on the experiences of the model pilot program. The bill would repeal these provisions on January 1, 2018.

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 finds and declares as follows:

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

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

31 (c) The Legislature has previously recognized that the number
32 of person with limited English proficiency in California is
33 increasing and recognized the need to provide equal justice under
34 the law to all California residents and the need to provide for their
35 special needs in their relations with the judicial and administrative
36 law systems. The Legislature has likewise recognized that the
37 effective maintenance of a democratic society depends on the right
38 and ability of its residents to communicate with their government
39 and the right and ability of the government to communicate with
40 them.

1 (d) Court interpreter services are a core court function. Our
2 judicial system relies on the adversarial process in which neutral
3 arbiters decide disputes based upon competing presentations of
4 facts and law. Conducting court proceedings when one party is
5 incapable of fully participating significantly impairs the quality
6 and efficiency of the process and its results, including compliance
7 with court orders.

8 (e) The inability to respond to the language needs of parties in
9 court impairs trust and confidence in the judicial system and
10 undermines efforts to secure justice for all. The authority of the
11 courts depends on public perceptions of fairness and accessibility.
12 Any significant erosion of public trust and confidence in the
13 fairness of judicial outcomes threatens the future legitimacy of the
14 legal system. By excluding a large segment of the population from
15 participating in an institution that shapes and reflects our values,
16 we threaten the integrity of the judicial process. Resentment
17 fostered by the inability to access the benefits of the court system
18 can ultimately impair enforcement of judicial decrees and attenuate
19 the rule of law.

20 (f) Reliance on untrained interpreters, such as family members
21 or children, can lead to faulty translations and threaten the court's
22 ability to ensure justice. Court interpretation is extremely difficult
23 and takes a rare combination of skills, experience, and training.
24 Apart from the possibility of fraud, unqualified interpreters often
25 fail to accurately and comprehensively convey questions and distort
26 testimony by omitting or adding information, or by stylistically
27 altering the tone and intent of the speaker, thereby preventing
28 courts from hearing the testimony properly. These problems
29 compromise the factfinding process and can result in genuine
30 injustice.

31 (g) California law currently mandates appointment of an
32 interpreter for all witnesses in civil cases, and for parties with
33 hearing impairments. In addition, California statutes mandate the
34 appointment of an interpreter in adjudicative proceedings before
35 state agencies, boards, and commissions at no charge to the parties
36 whenever a party or the party's witness does not proficiently speak
37 or understand English. Other states by contrast provide both
38 witnesses and parties with a right to a court-appointed interpreter
39 in all civil matters at no cost to the party.

1 SEC. 2. The Legislature finds and declares that there continues
2 to be a shortage in the availability of certified and registered
3 interpreters in particular languages and various geographic regions
4 of California. This shortage of qualified interpreters impacts the
5 state's ability to provide meaningful access to justice for all court
6 users. It is the intent of the Legislature that every effort be made
7 to recruit and retain qualified interpreters to work in the state
8 courts, and that the Judicial Council make further efforts to improve
9 and expand court interpreter services and address the shortage of
10 qualified court interpreters.

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

12 756.5. (a) (1) The Judicial Council shall select up to five
13 courts to participate in a pilot project, which shall commence on
14 July 1, 2014, to provide interpreters in civil proceedings as
15 specified in this section. The pilot courts shall be selected from
16 among those participating in a working group established by the
17 Judicial Council to review, identify, and develop best practices to
18 provide interpreters in civil actions and proceedings.

19 (2) The initial pilot courts shall participate in the pilot project
20 until June 30, 2016. The Judicial Council, in consultation with the
21 pilot courts, shall consider whether a pilot court shall continue
22 participating in the project and whether to select another court or
23 additional courts to join the project. Courts selected to join the
24 project shall participate for three years, or another duration
25 determined by the Judicial Council, in consultation with the pilot
26 courts.

27 (b) The pilot project shall be conducted for the purpose of
28 creating models for effectively providing interpreters in civil
29 matters, implementing best practices, and ascertaining the need
30 for additional interpreter resources and funding to provide
31 interpreters in civil matters on a statewide basis.

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

33 (1) The pilot courts shall provide interpreters to any party
34 proceeding in forma pauperis who is present and who does not
35 proficiently speak or understand the English language for the
36 purpose of interpreting the proceedings in a language that the party
37 understands and assisting communications between the party, his
38 or her attorney, and the court in the following types of actions and
39 proceedings:

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

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

4 (C) Actions and proceedings relating to unlawful detainer.

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

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

11 (2) The pilot courts shall provide interpreters in other civil
12 actions or proceedings or in matters in which the party is not
13 appearing in forma pauperis if there is sufficient funding and
14 interpreter resources available to meet all the interpretation needs
15 in the actions and proceedings described in paragraph (1).

16 (3) The pilot courts shall develop a methodology for deploying
17 available interpreter resources, including, but not limited to, funds
18 allocated specifically for interpreters.

19 (4) Interpreters shall be certified or registered pursuant to Article
20 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the
21 Government Code. Subdivisions (c) and (d) of Section 755 of the
22 Evidence Code shall apply to proceedings described in this section.

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

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

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

33 (g) (1) On or before September 1, 2017, the Judicial Council
34 shall report to the Legislature its findings and recommendations
35 based on the experiences of the model pilot program. The report
36 shall include findings and recommendations regarding the need
37 for additional interpreters and funding, or other resources, to
38 provide interpreters in both of the following:

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

40 (B) All civil actions and proceedings.

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

4 (3) The report shall also describe the factors affecting the
5 selection of pilot courts, such as, but not limited to, strategies for
6 collaborating with organizations representing stakeholders, utilizing
7 local resources, and methods for addressing the availability of
8 qualified interpreters.

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

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

18 (j) This section shall remain in effect only until January 1, 2018,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2018, deletes or extends that date.