

AMENDED IN SENATE APRIL 15, 2013

SENATE BILL

No. 597

Introduced by Senator Lara

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

SB 597, as amended, 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, by June 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 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:

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

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

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

1 and ability of its residents to communicate with their government
2 and the right and ability of the government to communicate with
3 them.

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

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

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

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

1 witnesses and parties with a right to a court-appointed interpreter
2 in all civil matters at no cost to the party.

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

13 SEC. 3. Section 756 is added to the Evidence Code, to read:

14 756. (a) (1) On or before June 1, 2014, the Judicial Council
15 shall establish a working group to review, identify, and develop
16 best practices to provide interpreters in civil actions and
17 proceedings. The best practices developed by the working group
18 shall be used in carrying out the pilot project described in Section
19 756.5.

20 (2) In developing the best practices, the working group shall
21 consider ways to maximize the use of existing resources,
22 calendaring issues, and other practices that will assist courts to
23 deploy interpreters effectively in civil proceedings.

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

28 (b) The working group shall include court executive officers,
29 presiding judges, interpreter coordinators, interpreters, at least
30 two of whom shall be nominated by an exclusive representative of
31 interpreter employees, representatives of legal services
32 organizations and organizations representing individuals with
33 limited English proficiency, and others that the Judicial Council
34 determines necessary. The working group shall also include a
35 representative from a rural community.

36 (c) This section shall remain in effect only until January 1, 2018,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2108, deletes or extends that date.

39 ~~SEC. 3.~~

40 SEC. 4. Section 756.5 is added to the Evidence Code, to read:

1 756.5. (a) (1) The Judicial Council shall select up to five
2 courts to participate in a pilot project, which shall commence on
3 July 1, 2014, to provide interpreters in civil proceedings as
4 specified in this section. The pilot courts shall be selected from
5 among those participating in a working group established by the
6 Judicial Council to review, identify, and develop best practices to
7 provide interpreters in civil actions and proceedings.

8 (2) The initial pilot courts shall participate in the pilot project
9 until June 30, 2016. The Judicial Council, in consultation with the
10 pilot courts, shall consider whether a pilot court shall continue
11 participating in the project and whether to select another court or
12 additional courts to join the project. Courts selected to join the
13 project shall participate for three years, or another duration
14 determined by the Judicial Council, in consultation with the pilot
15 courts.

16 (b) The pilot project shall be conducted for the purpose of
17 creating models for effectively providing interpreters in civil
18 matters, implementing best practices, and ascertaining the need
19 for additional interpreter resources and funding to provide
20 interpreters in civil matters on a statewide basis.

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

22 (1) The pilot courts shall provide interpreters to any party
23 proceeding in forma pauperis who is present and who does not
24 proficiently speak or understand the English language for the
25 purpose of interpreting the proceedings in a language that the party
26 understands and assisting communications between the party, his
27 or her attorney, and the court in the following types of actions and
28 proceedings:

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

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

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

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

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

39 (2) The pilot courts shall provide interpreters in other civil
40 actions or proceedings or in matters in which the party is not

1 appearing in forma pauperis if there is sufficient funding and
2 interpreter resources available to meet all the interpretation needs
3 in the actions and proceedings described in paragraph (1).

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

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

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

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

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

22 (g) (1) On or before September 1, 2017, the Judicial Council
23 shall report to the Legislature its findings and recommendations
24 based on the experiences of the model pilot program. The report
25 shall include findings and recommendations regarding the need
26 for additional interpreters and funding, or other resources, to
27 provide interpreters in both of the following:

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

29 (B) All civil actions and proceedings.

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

33 (3) The report shall also describe the factors affecting the
34 selection of pilot courts, such as, but not limited to, strategies for
35 collaborating with organizations representing stakeholders, utilizing
36 local resources, and methods for addressing the availability of
37 qualified interpreters.

38 (h) Nothing in this chapter shall limit or restrict courts from
39 providing interpreters in civil proceedings when those services are

1 already being provided or in matters in which the judicial officer
2 deems it necessary to appoint an interpreter.

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

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

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