

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 597**

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**Introduced by Senator Lara**

February 22, 2013

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An act to add and repeal 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~~ *January 1, 2019*, 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~~ *2020*.

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~~ *more likely to be in need of court intervention*  
 29 *to protect their legal rights, in part because perpetrators capitalize*  
 30 *on the particular vulnerability of this class of persons that is posed*  
 31 *by various barriers that stand between them and judicial*  
 32 *protection, including both economic and language barriers. It is*  
 33 essential to provide English learners and other  
 34 non-English-speaking litigants with interpreters in order to provide

1 full and equal access to our justice system without regard to  
2 language.

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

13 (d) Court interpreter services are a core court function. Our  
14 judicial system relies on the adversarial process in which neutral  
15 arbiters decide disputes based upon competing presentations of  
16 facts and law. Conducting court proceedings when one party is  
17 incapable of fully participating significantly impairs the quality  
18 and efficiency of the process and its results, including compliance  
19 with court orders.

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

32 (f) Reliance on untrained interpreters, such as family members  
33 or children, can lead to faulty translations and threaten the court's  
34 ability to ensure justice. Court interpretation is extremely difficult  
35 and takes a rare combination of skills, experience, and training.  
36 Apart from the possibility of fraud, unqualified interpreters often  
37 fail to accurately and comprehensively convey questions and distort  
38 testimony by omitting or adding information, or by stylistically  
39 altering the tone and intent of the speaker, thereby preventing  
40 courts from hearing the testimony properly. These problems

1 compromise the factfinding process and can result in genuine  
2 injustice.

3 (g) California law currently mandates appointment of an  
4 interpreter for all witnesses in civil cases, and for parties with  
5 hearing impairments. In addition, California statutes mandate the  
6 appointment of an interpreter in adjudicative proceedings before  
7 state agencies, boards, and commissions at no charge to the parties  
8 whenever a party or the party's witness does not proficiently speak  
9 or understand English. Other states by contrast provide both  
10 witnesses and parties with a right to a court-appointed interpreter  
11 in all civil matters at no cost to the party.

12 SEC. 2. The Legislature finds and declares that there continues  
13 to be a shortage in the availability of certified and registered  
14 interpreters in particular languages and various geographic regions  
15 of California. This shortage of qualified interpreters impacts the  
16 state's ability to provide meaningful access to justice for all court  
17 users. It is the intent of the Legislature that every effort be made  
18 to recruit and retain qualified interpreters to work in the state  
19 courts, and that the Judicial Council make further efforts to improve  
20 and expand court interpreter services and address the shortage of  
21 qualified court interpreters.

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

23 756. (a) (1) On or before June 1, 2014, the Judicial Council  
24 shall establish a working group to review, identify, and develop  
25 best practices to provide interpreters in civil actions and  
26 proceedings. The best practices developed by the working group  
27 shall be used in carrying out the pilot project described in Section  
28 756.5.

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

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

37 (b) The working group shall include court executive officers,  
38 presiding judges, interpreter coordinators, interpreters, at least two  
39 of whom shall be nominated by an exclusive representative of  
40 interpreter employees, representatives of legal services

1 organizations and organizations representing individuals with  
2 limited English proficiency, and others that the Judicial Council  
3 determines necessary. The working group shall also include a  
4 representative from a rural community.

5 (c) This section shall remain in effect only until January 1, ~~2018~~  
6 2020, and as of that date is repealed, unless a later enacted statute,  
7 that is enacted before January 1, ~~2108~~ 2020, deletes or extends  
8 that date.

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

10 756.5. (a) (1) The Judicial Council shall select up to five  
11 courts to participate in a pilot project, which shall commence on  
12 July 1, 2014, to provide interpreters in civil proceedings as  
13 specified in this section. The pilot courts shall be selected from  
14 among those participating in a working group established by the  
15 Judicial Council to review, identify, and develop best practices to  
16 provide interpreters in civil actions and proceedings.

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

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

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

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

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

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

- 1 (C) Actions and proceedings relating to unlawful detainer.  
2 (D) Actions and proceedings involving the appointment or  
3 termination of a probate guardian or conservator.  
4 (E) Actions or proceedings under the Elder Abuse and  
5 Dependent Adult Civil Protection Act (Chapter 11 (commencing  
6 with Section 15600) of Part 3 of Division 9 of the Welfare and  
7 Institutions Code).
- 8 (2) The pilot courts shall provide interpreters in other civil  
9 actions or proceedings or in matters in which the party is not  
10 appearing in forma pauperis if there is sufficient funding and  
11 interpreter resources available to meet all the interpretation needs  
12 in the actions and proceedings described in paragraph (1).
- 13 (3) The pilot courts shall develop a methodology for deploying  
14 available interpreter resources, including, but not limited to, funds  
15 allocated specifically for interpreters.
- 16 (4) Interpreters shall be certified or registered pursuant to Article  
17 4 (commencing with Section 68560) of Chapter 2 of Title 8 of the  
18 Government Code. Subdivisions (c) and (d) of Section 755 of this  
19 code shall apply to proceedings described in this section.
- 20 (d) This section shall not be construed to negate or limit any  
21 right to an interpreter in a civil action or proceeding otherwise  
22 provided by state or federal law.
- 23 (e) This section shall not be construed to alter the right of an  
24 individual to an interpreter in criminal, traffic or other infraction,  
25 juvenile, or mental competency actions or proceedings.
- 26 (f) This section shall not result in a reduction in staffing or  
27 compromise the quality of interpreting services in criminal,  
28 juvenile, or other types of matters in which interpreters are  
29 provided.
- 30 (g) (1) On or before ~~September 1, 2017~~ *January 1, 2019*, the  
31 Judicial Council shall report to the Legislature its findings and  
32 recommendations based on the experiences of the model pilot  
33 program. The report shall include findings and recommendations  
34 regarding the need for additional interpreters and funding, or other  
35 resources, to provide interpreters in both of the following:
- 36 (A) Case types that were the subject of the pilot.  
37 (B) All civil actions and proceedings.
- 38 (2) The report shall also describe, to the extent possible, the  
39 impact of the availability of interpreters on access to justice and  
40 on court administration and efficiency.

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

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

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

15 (j) This section shall remain in effect only until January 1, ~~2018~~  
16 2020, and as of that date is repealed, unless a later enacted statute,  
17 that is enacted before January 1, ~~2018~~ 2020, deletes or extends  
18 that date.