

SUBJECT: Certification and licensing of court interpreters

COMMITTEE: Judicial Affairs — favorable, with amendment

VOTE: 9 ayes — Thompson, Hartnett, Capelo, Deshotel, Garcia, Hinojosa, Solis, Talton, Uresti

0 nays

WITNESSES: For — Cristina Helmerichs, National Association of Judiciary Interpreters and Translators; *Registered but did not testify:* Bill D. Carroll, Texas Court Reporters Association; Judge Jim Coronado; Glenda Fuller, Texas Court Reporting Services; Judge Guy Hermann, Statutory Probate Judges of Texas

Against — Deborah Drummond; Kristen Schwall-Hoyt

On — Brian Francis, Texas Department of Licensing and Regulation; *Registered but did not testify:* Billy Collins, David Myers, and Randi Turner, Texas Commission for the Deaf and Hard of Hearing; William Kuntz, Texas Department of Licensing and Regulation

DIGEST: HB 2735, as amended, would require a court in a civil or criminal proceeding to appoint a certified or licensed court interpreter upon request by a party to the proceeding or by a witness. A court also could appoint a certified or licensed court interpreter on its own motion. The bill would define such an interpreter as a person qualified under Code of Criminal Procedure, art. 38.31, or Civil Practice and Remedies Code, sec. 21.003, or certified by the Texas Commission for the Deaf and Hard of Hearing to interpret court proceedings for a hearing-impaired person.

In a county with a population of less than 50,000, a court could appoint a spoken language interpreter at least 18 years old who was not a certified or licensed court interpreter and who was qualified by the court as an expert under the Texas Rules of Evidence and was not a party to the proceeding.

Certification program. The Commission for the Deaf and Hard of Hearing would have to certify court interpreters for hearing-impaired people, maintain a list of certified or otherwise qualified court interpreters, and send the list to each state court and, on request, to other interested people. The commission

could contract with educational institutions to administer a training program. If the training failed to meet the commission's requirements, the commission could suspend the training. The commission could maintain a list of interpreters certified by the Court Reporters Certification Board and could send the list to a person or court. The commission could accept gifts and donations to assist the court interpreter certification program.

The commission would have to certify an applicant who passed the commission's examination and met the commission's requirements. The commission would have to provide by rule for the qualifications of certified court interpreters, training programs, administration of examinations, forms and procedures for certificates and renewals, applicable fees, continuing education programs, instruction for compensating certified court reporters, and administrative sanctions.

The commission would have to prepare a certification examination to be offered at least twice a year. A person who failed an examination could apply for the next scheduled examination.

The commission's executive director would have to enforce provisions related to the certification program and investigate alleged violations. The commission would have to adopt rules establishing grounds for denial, suspension, revocation, and reinstatement of a certificate. A certificate could not be revoked or suspended without a hearing. If a person whose certificate had been revoked applied in writing to the commission and showed good cause to reissue a certificate, the commission would have to reissue the certificate.

A person could not advertise, represent to be, or act as a certified court interpreter without a certificate. A violation of this provision would be a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000, and would be subject to an administrative penalty assessed by the commission. These provisions would take effect January 1, 2002.

Advisory board. HB 2735 would establish a licensed court interpreter advisory board to the Texas Department of Licensing and Regulation. The board would comprise an active district, county, or statutory county court judge, an active court administrator, and an active attorney, each of whom

would have to have at least three years' experience; three active licensed court interpreters; and three public members. The board would have to advise the commissioner regarding the adoption of rules and the design of the licensing examination for court interpreters.

The licensed court interpreter advisory board would expire September 1, 2013, unless continued by the Legislature. The governor would appoint the initial members of the board, who would draw lots to determine the lengths of their terms.

Licensing program. The licensing and regulation commissioner would have to issue a court interpreter license to an applicant who could interpret for an individual who could hear but did not comprehend or speak in English. A licensee would have to pass the examination prescribed by the commissioner and possess the other required qualifications.

The commissioner would have to adopt rules relating to interpreter licensing, prescribe all required forms, and set license and examination fees. A license would be valid for one year. To qualify for a court interpreter license, an applicant would have to apply on the commissioner's form and to demonstrate reasonable proficiency in interpreting English and court proceedings.

The commissioner would have to prepare examinations that would test the applicant's knowledge, skill, and efficiency in interpreting. A person who failed an examination could apply for reexamination at least six months after the previous examination. Examinations would be offered twice a year.

The commissioner would have to enforce these provisions and investigate alleged violations. After a hearing, the commissioner could suspend or revoke a license on finding that a person had made a misstatement in an application, had willfully disregarded or violated a rule of the commission, had been convicted of a felony or any crime in which the essential element of the offense was fraud, or had engaged in dishonorable or unethical conduct likely to deceive the public or a person for whom the interpreter interpreted. The commission could reissue a revoked license if the applicant applied in writing and showed good cause to justify reissuance.

A person could not advertise, represent to be, or act as a licensed court interpreter without a license. A violator would be subject to a Class A misdemeanor and an administrative penalty assessed by the commission. These provisions would take effect January 1, 2002.

HB 2735 would take effect September 1, 2001, except as otherwise noted. A person would not hold to a certificate or a license until January 1, 2002. A person practicing as court interpreter on the effective date could be licensed without examination by submitting proof of experience to the appropriate commission and paying the required fees.

**SUPPORTERS
SAY:**

HB 2735 would provide an important service to the public. Texas has a large population of immigrants and of people who are hearing-impaired. These people need to have a clear voice in court to ensure proper justice.

Since courts do not have requirements for interpreters, inexperienced and unqualified people sometimes are called on to serve as interpreters. In many instances, children have been ordered to translate for their parents, even in cases of termination of parental rights because of abuse. In some cases, a court may order someone with minimal language skills to interpret complicated legal language.

HB 2735 would ensure that qualified people acted as court interpreters. Currently, people who claim to be court interpreters are not required to show the court any proof of their qualifications. Courts use these people as interpreters until they commit major mistakes. These mistakes can be hard to detect, since often the witness is the only person who understands what the interpreter may be saying. Cases have arisen in which persons have been acquitted simply because the victim's testimony was not translated properly. There also have been cases in which the wrong person was indicted because of faulty translation.

HB 2735 would require the state to adopt or create exams to certify and license court interpreters. All the other states that border Mexico have state tests to certify court interpreters. Texas does not require nor offer any tests. Texas could use other states' court interpreter exams as models for its own, or the state could require applicants to pass a nationally established exam, such as those offered by the Registry of Interpreters for the Deaf.

This bill would ensure that certified and licensed interpreters were qualified by requiring the establishment of training schools. Part of the skill of court interpreting is being able to interpret legal language accurately. The training schools would allow interpreters to hone their skills and help them pass the tests to become certified or licensed.

OPPONENTS
SAY:

HB 2735 should require the court interpreting exams to be psychometrically sound. Experts in the field of test and measurements have determined standards that must be met in order for a test to be valid and reliable. Adding this requirement would ensure that the test developed or adopted would meet the standards of the field before it was offered to interpreters. The bill's purpose would be defeated if the exams did not test the necessary skills adequately.

NOTES:

The committee amendment would shift certain provisions to different sections of the bill for clarity.