

- SUBJECT:** Appointment of interpreters for judicial proceedings
- COMMITTEE:** Judiciary — committee substitute recommended
- VOTE:** 7 ayes — Hartnett, Hughes, Alonzo, Gonzales, Hopson, Solis, Straus
1 nay — Keel
1 absent — Van Arsdale
- WITNESSES:** For — Craig Pardue, Dallas County; Michael Pichinson, Texas Conference of Urban Counties.

Against — Cristina Helmerichs, Texas Association of Judiciary Interpreters and Translators; Steven Mines; Felipe D. Perez
- BACKGROUND:** Government Code, sec. 57.002, requires a court to appoint a certified court interpreter or a licensed court interpreter if a party files a motion for the appointment of one or if a witness in a proceeding requests one. A court, on its own motion, also may appoint an interpreter.
- In counties with populations of 50,000 or less, the appointed interpreter need not be licensed or certified if the individual is qualified by the court as an expert under the Texas Rules of Evidence, is at least 18 years old, and is not a party to the proceeding.
- A licensed court interpreter is an individual licensed by the Texas Commission on Licensing and Regulation to interpret court proceedings for someone who can hear but does speak or understand English. To be licensed, a person must pass a written and oral exam in the foreign language.
- A certified court interpreter is a qualified interpreter as defined in Code of Criminal Procedure, art. 38.31 or Civil Practice and Remedies Code, sec. 21.003 or certified under subch. B by the Texas Commission for the Deaf and Hard of Hearing to interpret court proceedings for a hearing-impaired person.

DIGEST: CSHB 1642 would allow a county with a population of more than 50,000 to appoint a spoken language interpreter who was not a certified or licensed court interpreter if:

- the necessary language in the proceeding was not Spanish; and
- the court found that no licensed interpreter within 75 miles could interpret in the language necessary in the proceeding.

The appointed unlicensed or uncertified interpreter would have to be qualified as an expert under the Texas Rules of Evidence, be at least 18 years old, and not be a party to the proceeding.

The bill would take effect on September 1, 2005, and would apply to the appointment of court interpreters on or after that date.

SUPPORTERS
SAY:

Courts often have trouble finding qualified licensed court reporters in their counties. When this happens, courts must delay a case or hearing in order to bring a licensed court reporter from another county, even if qualified speakers who are not licensed are available within the county. This wastes time and money.

Counties should not have to bear the burden and expense of bringing licensed court interpreters from other counties when competent but unlicensed interpreters are available within the county. CSHB 1642 would eliminate this expense and move dockets along more swiftly.

This bill is consistent with the current requirements for counties with populations of less than 50,000. Because there are no apparent problems with the current law's application to smaller counties, there is no reason the law should apply differently to large counties.

The bill would have safeguards to ensure that judges used qualified interpreters. It would require judges first to certify that no licensed interpreters were available, and only then could a court use an unlicensed interpreter. Most judges would use due diligence to find a licensed interpreter if one were available. If one were not available, the individual chosen still would have to qualify as an expert.

CSHB 1642 would not apply to interpreters for the hearing impaired. The bill makes clear that the proposed changes would apply only to spoken language interpreters. The bill is consistent with the language in the

current law and makes clear that the proposed changes would apply only to spoken language interpreters.

OPPONENTS
SAY:

Texas has a large population of immigrants and people who are hearing impaired. These people deserve to have clear and accurate representation in court to ensure justice. CSHB 1642 would risk people with minimal language skills being called upon to interpret complicated legal language.

The current law ensures that only qualified people interpret for the non-English speakers and the hearing impaired. Those who are licensed or certified go through stringent testing to ensure that they are proficient in a foreign language or sign language. If someone is not licensed, a judge cannot be sure that person is appropriately qualified.

While this bill could save counties money, it also could prevent a victim or defendant from receiving a fair trial. Without a licensed interpreter, a court could not be sure that non-English speakers were fairly and accurately represented in court. The need for accurate and fair representation in court should trump the counties' financial concerns.

Moreover, the bill would appear to allow courts to appoint non-certified interpreters for the hearing impaired without first ensuring that certified interpreters were unavailable. Sec. 57.001 of the Government Code defines a "certified court interpreter" as an interpreter for the hearing impaired. The bill says a court could appoint an interpreter who was not a certified court interpreter, but does not appear to require courts to ensure that no certified court interpreters were available within 75 miles because it only would apply those requirements to appointment of licensed interpreters. This might lead a court to choose a non-certified interpreter even though certified interpreters were available.

NOTES:

The substitute left the current law unchanged with respect to counties with populations under 50,000. The substitute also added the requirement that a court make a finding that no licensed court interpreters were available within a 75-mile radius who could interpret the necessary language.

A related bill, HB 1601 by Madden, allowing use of qualified telephone interpreters in criminal cases, has been set on tomorrow's General State Calendar.