

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE

House Bill 1228 (Delegate R. Baker. *et al.*)

Commerce and Government Matters

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**State Government - Access to Services and the Justice System - Language Barriers**

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This bill contains various provisions to ensure access to government services and the justice system to people who do not speak English.

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**Fiscal Summary**

**State Effect:** Significant increases in expenditures for many State agencies for language interpretation, translation, word processing, printing, and related services.

**Local Effect:** Potentially significant increases in expenditures for many local government entities for language interpretation, translation, word processing, printing, and related services. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** In a criminal proceeding, a court must appoint more than one interpreter when necessary to protect client confidentiality or ensure due process of law. The Administrative Office of the Courts (AOC) must establish and implement minimum training and certification standards for court interpreters and maintain a master registry of certified interpreters. A court may only appoint a language interpreter who satisfies the minimum certification standards established by the AOC. The AOC must provide sufficient certified language interpreters to the State courts, offices of the Public Defender, offices of the State's Attorney, and law enforcement agencies as needed. The AOC must ensure that all courts in the State translate documents into languages other than English as needed to ensure due process of law.

The departments and agencies of State government, the courts, and all entities receiving State funds must take those actions necessary to ensure that a person's ability to understand the

documents, notices, forms, and other materials distributed to the public is not impaired by the person's inability to speak and understand English. It is assumed that the bill's requirements would also apply to the legislative branch.

State funds may not be used for the purposes of sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship status or immigration status of any individual.

A State department, agency, or program may not deny public services or discriminate against a person based on language ability. Violators are subject to civil fines.

The Human Relations Commission must adopt regulations setting forth the policies and procedures that State departments, agencies, and programs must follow where a significant number or proportion of the population eligible to be served needs services or information in a language other than English (including Spanish and any other language spoken by more than 1% of the monolingual residents of the State) in order to be effectively informed of or participate in the programs and services. This requirement applies to:

- written material that is ordinarily distributed to the public (including application and complaint forms, educational/informational materials and notices);
- the provision of programs and services; and
- administrative proceedings (including intake interviews, investigations, and hearings).

The Director of the Governor's Office of Minority Affairs must advise the Governor on the activities of the State government that are intended to promote the employment of bilingual persons in the State.

**Current Law:** In a criminal proceeding, a qualified interpreter must be appointed to assist a defendant who does not speak English, at the expense of the Administrative Office of the Courts.

It is unlawful for an owner or operator of a place of public accommodation or an agent or employee of the owner or operator, because of the race, creed, sex, age, color, national origin, marital status, or disability of any person, to refuse, withhold from, or deny to such person any of the accommodations, advantages, facilities, and privileges of such place of public accommodation.

The Director of the Governor's Office of Minority Affairs must advise the Governor on the activities of the State government that are intended to promote the employment of minority persons in the State.

**State Expenditures:** The bill would require significant expenditure increases by many State agencies.

The Administrative Office of the Courts (AOC) has a court interpreter program in place under which interpreters seeking work assignments in Maryland courts must meet certain minimum requirements. As of July 1, 1999, the AOC has paid for court interpreters in criminal proceedings in the circuit courts. For the first six months, costs were approximately \$93,000 (\$186,000 on an annualized basis). To the extent that two interpreters would be required in cases pursuant to the bill, these costs would increase.

Based on information supplied by the AOC, it is estimated that basic written translation services cost approximately \$36 per page. The District Court uses over 300 forms. Assuming that each form contains three pages, and that the bill would require translation of each of these forms, translation costs for one language would be \$32,400. This figure does not include word processing and printing costs. The number of forms used by the circuit courts is not known.

Based on information supplied by the Department of Budget and Management, it is estimated that it would cost approximately \$364,000 to translate State Personnel Management System documents into a single language. This figure does not include word processing and printing costs.

The Alcohol and Drug Abuse Administration estimates that the cost of providing interpreting services for people seeking substance abuse treatment who do not speak English would exceed \$150,000 annually.

Other State agencies would incur similar translation, interpreting, word processing, printing, and related costs as a result of the bill. The precise total increase in State expenditures that would result from the bill cannot be reliably estimated.

**Local Expenditures:** The bill's requirements relating to language interpreters and translation of documents could result in significant expenditure increases by the circuit courts. In addition, the bill's provision that "[t]he departments and agencies of State government, the courts, and all entities receiving State funds shall take those actions necessary to ensure that a person's ability to understand the documents, notices, forms, and other materials distributed to the public by them is not impaired by the person's inability to speak and understand the English language" could be interpreted to require significant expenditure increases by other local government agencies for interpretation, translation, word processing, printing, and related services.

The precise total increase in local government expenditures that would result from the bill cannot be reliably estimated at this time.

**Small Business Effect:** Small businesses that provide translation or word processing services could receive additional business as a result of the bill.

**Additional Comments:** Minnesota recently completed a pilot project in translation of legal documents, which was started in May 1997. The report from that study included the following observations:

- a person who is proficient in oral translation is not necessarily properly qualified to work as a translator of written materials, because those two occupations require different kinds of training, experience, and abilities;
- once documents are translated and distributed for use in the court system, those documents must be monitored for changes on an ongoing basis and revised and re-translated at least annually in order to keep them accurate and up-to-date;
- it was necessary to coordinate the procedures of the various translators with numerous people and groups throughout the translation process;
- complex bureaucratic issues arose during the contracting process, including intellectual property concerns;
- the lack of linguistic equivalents for English legal terminology in certain languages causes problems;
- changing state demographics would require translation in more and different languages each year;
- some translated documents were difficult to distribute electronically because the unusual characters in several of the foreign languages that do not use the Roman alphabet rendered the documents incompatible with court computer systems; and
- the translation process requires a high degree of accuracy and is expensive and time consuming.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 741 (Senator Ruben, *et al.*) - Judicial Proceedings.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services (Division of Correction), Department of Budget and Management, Maryland Department of Transportation, Judiciary (Administrative Office of the Courts), Office of Administrative Hearings, Department of Legislative Services

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Analysis by: Claire E. Rooney

Direct Inquiries to:  
John Rixey, Coordinating Analyst  
(410) 946-5510  
(301) 970-5510