

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 1041 (Senator Frosh)
Judicial Proceedings

Courts - Victims of Crime - Interpreters

This bill authorizes a victim or victims' representative to apply for, and requires the court to appoint, a qualified interpreter if the person is deaf or cannot readily understand or communicate the spoken English language. The bill also requires the court to maintain a directory of interpreters to assist persons who cannot readily understand or communicate the spoken English language.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures to provide interpreters for victims or victims' representatives. In addition, the bill may help protect federal funding by ensuring that Maryland law conforms to federal guidelines.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: If a party or witness is deaf or cannot readily understand or communicate the spoken English language, any party may apply to the court for the appointment of a qualified interpreter. As far as practicable, the application should be made on a court approved form and submitted not less than five days before the proceeding for which the interpreter is requested. If a party or witness is deaf and applies for an interpreter, the court is required to appoint a qualified interpreter for the applicant. Interpreters appointed by the court to assist in these instances are allowed reasonable compensation, as determined by the court. The court is required to determine whether a spoken

language interpreter is needed by an examination of a party or witness on the record using questions relating to identification, active vocabulary in vernacular English, and the court proceedings. The court must appoint an interpreter if it determines that (1) a party does not understand English well enough to participate fully in the proceedings and to assist counsel; or (2) the party or witness does not speak English well enough to be understood by the counsel, the court, and the jury.

The court has the discretion to tax, as part of the costs of the case, amounts paid to an interpreter for services and expenses. Otherwise, the costs for the interpreter must be paid by the county where the proceedings were initiated. The court's decision must be in compliance with the Americans with Disabilities Act (ADA). ADA requires that courts be accessible to individuals with disabilities and provide reasonable accommodations to qualified persons. This includes providing qualified interpreters and auxiliary aids to individuals who are deaf or hearing impaired.

Chapter 771 of 1998 requires that the State budget for the Judiciary include an authorization to the Administrative Office of the Courts (AOC) in the total amount necessary to provide interpreter services as required under federal or State law in a circuit court proceeding.

Background: Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of national origin. Under the regulations implementing Title VI, recipients of federal funding have a responsibility to ensure that persons with limited English proficiency (LEP) have meaningful access to their programs and activities. Executive Order 13166, reprinted as 65 FR 51021 (August 16, 2000) required each federal agency that extends federal financial assistance to issue guidelines clarifying this requirement to funding recipients. The U.S. Department of Justice, which provides federal funding to State courts, issued a four-factor analysis for funding recipients to consider when determining under what circumstances language assistance might be required to ensure meaningful access to programs or activities. The factors are (1) the number or proportion of LEP persons in the eligible service population; (2) the frequency with which LEP individuals come into contact with the program; (3) the importance of the program or activity to the LEP person (including the consequences of lack of language services or inadequate interpretation/translation); and (4) the resources available to the recipient and the costs.

In August 2010, the Civil Rights Division of the U.S. Department of Justice issued a letter to Chief Justices and State Court Administrators that intended to provide greater clarity regarding the requirements for courts receiving federal financial assistance to provide meaningful access to LEP individuals. The letter stated that the federal requirement to provide language assistance to LEP individuals applies regardless of conflicting state or local laws, or court rules. The letter specified that "courts should

provide language assistance to non-party LEP individuals whose presence or participation in a court manner is necessary or appropriate, including parents and guardians of minor victims of crime.” The letter also noted a finding that “meaningful access inside the courtroom is most effectively implemented in states that have adopted a court rule, statute, or administrative order providing for universal, free, and qualified court interpreting.”

State Expenditures: AOC pays for all interpreter services in District Court and circuit court cases. The fiscal 2013 allowance includes \$5 million for interpreter services, which includes \$926,040 for 10 contractual interpreters. Providing interpreter services to victims or victim representatives may increase general fund expenditures minimally.

Additional Comments: Federal fund revenues of approximately \$3.6 million annually, which represents the Judiciary’s 2012 federal fund appropriation, would be at risk if the U.S. Department of Justice determines that the Maryland Judiciary is in violation of federal regulations implementing Title VI of the Civil Rights Act of 1964.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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mlm/kdm

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