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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 669**      Session of  
2003

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INTRODUCED BY COSTA, MELLOW, LOGAN, SCHWARTZ, KUKOVICH,  
HELFRICK, MUSTO, TARTAGLIONE, HUGHES, KITCHEN, STOUT, ORIE,  
WOZNIAK AND C. WILLIAMS, APRIL 24, 2003

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REFERRED TO JUDICIARY, APRIL 24, 2003

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for court  
3 interpreters.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 42 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 44

9 COURT INTERPRETERS

10 Sec.

11 4401. Legislative findings and declaration.

12 4402. Definitions.

13 4403. Interpreters in courts.

14 4404. Maintenance of list of interpreters.

15 4405. Utilization and appointment of interpreters.

16 4406. Special interpretation services.

17 4407. Funding.

18 4408. Sign language interpreters.

1 § 4401. Legislative findings and declaration.

2 It is hereby declared to be the policy of this Commonwealth  
3 to secure the rights, constitutional and otherwise, of persons,  
4 who because of a non-English-speaking cultural background, are  
5 unable to understand or communicate adequately in the English  
6 language when they appear in courts or are involved in judicial  
7 proceedings. It is the intent of this chapter to provide for the  
8 certification, appointment and use of interpreters to secure the  
9 Federal and State constitutional rights of non-English speaking  
10 persons in all judicial proceedings.

11 § 4402. Definitions.

12 The following words and phrases when used in this chapter  
13 shall have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Certified interpreter." A person who:

16 (1) Is readily able to interpret simultaneously and  
17 consecutively and to sight translate from English to the  
18 language of the non-English speaking person or from the  
19 language of that person into English.

20 (2) Is certified according to procedures approved by the  
21 Supreme Court.

22 "Clerk." The prothonotary, clerk of courts or other similar  
23 officer of a court of common pleas.

24 "Commonwealth attorney." A district attorney or the district  
25 attorney's designee or the Attorney General or the Attorney  
26 General's designee.

27 "Court Administrator." The Court Administrator of  
28 Pennsylvania as defined in section 102 (relating to  
29 definitions).

30 "Interpreter." The term includes a certified interpreter and

1 otherwise qualified interpreter.

2 "Judicial proceedings instituted by the Commonwealth."  
3 Proceedings, whether criminal or civil, including pretrial and  
4 grand jury proceedings, as well as proceedings upon a petition  
5 for a writ of habeas corpus initiated in the name of the  
6 Commonwealth by a relator, conducted in or pursuant to the  
7 lawful authority and jurisdiction of a Pennsylvania court.

8 "Non-English-speaking person." A principal party in interest  
9 or witness participating in a legal proceeding who has limited  
10 ability to speak or understand the English language.

11 "Otherwise qualified interpreter." A person who is readily  
12 able to interpret simultaneously and consecutively and to sight  
13 translate from English to the language of the non-English  
14 speaking person or from the language of that person into  
15 English.

16 "Pennsylvania court." A court that is created pursuant to  
17 Article V of the Constitution of Pennsylvania.

18 "Presiding judicial officer." A judge or justice authorized  
19 to serve as a judicial officer in a Pennsylvania court.

20 "Principal party in interest." A person involved in a legal  
21 proceeding who is a named party, will be bound by the decision  
22 or action or is foreclosed from pursuing that person's rights by  
23 the decision or action which may be taken in the judicial  
24 proceeding.

25 "Witness." A person who testifies in a judicial proceeding.

26 § 4403. Interpreters in courts.

27 (a) Establishment of program.--

28 (1) The Court Administrator shall establish a program to  
29 facilitate the use of interpreters in judicial proceedings  
30 instituted by the Commonwealth and upon request of any

1 litigant in judicial proceedings instituted in a Pennsylvania  
2 court.

3 (2) Only in a case in which no certified interpreter is  
4 reasonably available, including a case in which certified  
5 interpreters are not provided under this section in a  
6 particular language, may the services of otherwise qualified  
7 interpreters be used.

8 (b) Duties of Court Administrator.--

9 (1) The Court Administrator shall prescribe, determine  
10 and certify the qualifications of persons who may serve as  
11 certified interpreters when the Court Administrator considers  
12 certified interpreters to be merited for the hearing  
13 impaired, whether or not also speech impaired, and persons  
14 who speak only or primarily a language other than the English  
15 language in judicial proceedings.

16 (2) The Court Administrator may designate certified  
17 interpreters for any language if the Court Administrator  
18 determines that there is a need for certified interpreters in  
19 that language. Upon the request of the president judge for  
20 any judicial district for certified interpreters in a  
21 language, the Court Administrator shall designate certified  
22 interpreters in the language requested. Upon such a request  
23 and the approval of the Supreme Court, the Court  
24 Administrator shall designate certified interpreters for that  
25 judicial district in the language requested. The president  
26 judge of each judicial district shall identify and evaluate  
27 the needs of the courts within the judicial district.

28 (3) The Court Administrator shall designate certified  
29 interpreters based on the results of criterion-referenced  
30 performance examinations. The Court Administrator shall cause

1 to be published rules or regulations, as determined by the  
2 Court Administrator, to carry out this paragraph after the  
3 date of the enactment of this chapter.

4 (4) The Court Administrator shall provide guidelines to  
5 the courts for the selection of otherwise qualified  
6 interpreters in order to ensure that the highest standards of  
7 accuracy are maintained in all judicial proceedings subject  
8 to the provisions of this chapter.

9 (5) The Court Administrator shall maintain a current  
10 master list of all certified interpreters and otherwise  
11 qualified interpreters and shall report periodically on the  
12 use and performance of both certified and otherwise qualified  
13 interpreters in judicial proceedings and on the languages for  
14 which interpreters have been certified.

15 (6) The Court Administrator shall prescribe, subject to  
16 periodic review, a schedule of reasonable fees for services  
17 rendered by interpreters used in proceedings instituted by  
18 the Commonwealth and in doing so shall consider the  
19 prevailing rate of compensation for comparable service in  
20 other governmental entities.

21 § 4404. Maintenance of list of interpreters.

22 (a) General rule.--Each judicial district shall maintain on  
23 file in the office of the clerk of courts and each district  
24 attorney and the Attorney General shall maintain on file a list  
25 of all certified interpreters. The clerk shall make the list of  
26 certified interpreters for judicial proceedings available upon  
27 request. Additionally, the Court Administrator shall maintain  
28 such a list, organized by county, on the World Wide Web site of  
29 the Administrative Office of the Pennsylvania Courts.

30 (b) Securing of interpreter services.--The clerk or other

1 court employee designated by the president judge of a judicial  
2 district shall secure the services of interpreters required for  
3 proceedings initiated by the Commonwealth, except that the  
4 Commonwealth attorney shall secure the services of such  
5 interpreters for governmental witnesses.

6 § 4405. Utilization and appointment of interpreters.

7 (a) Decision to secure interpreter services.--The presiding  
8 judicial officer, with the assistance of the Court  
9 Administrator, shall utilize the services of the most available  
10 certified interpreter or when no certified interpreter is  
11 reasonably available, as determined by the presiding judicial  
12 officer, the services of an otherwise qualified interpreter in  
13 judicial proceedings instituted by the Commonwealth if the  
14 presiding judicial officer determines on such officer's own  
15 motion or on the motion of a party that such party, including a  
16 defendant in a criminal case, or a witness who may present  
17 testimony in such judicial proceedings:

18 (1) speaks only or primarily a language other than the  
19 English language; or

20 (2) suffers from a hearing impairment, whether or not  
21 suffering also from a speech impairment, so as to inhibit  
22 that party's comprehension of the proceedings or  
23 communication with counsel or the presiding judicial officer  
24 or so as to inhibit that witness's comprehension of questions  
25 and the presentation of such testimony.

26 (b) Electronic sound recording.--Upon the motion of any  
27 party, the presiding judicial officer shall determine whether to  
28 require the electronic sound recording of a judicial proceeding  
29 in which an interpreter is used under this section. In making  
30 this determination, the presiding judicial officer may consider

1 among other things:

2 (1) The qualifications of the interpreter and prior  
3 experience in interpretation of court proceedings.

4 (2) Whether the language to be interpreted is not one of  
5 the languages for which the Court Administrator has certified  
6 interpreters.

7 (3) The complexity or length of the proceeding.

8 In a grand jury proceeding, upon the motion of the accused, the  
9 presiding judicial officer shall require the electronic sound  
10 recording of the portion of the proceeding in which an  
11 interpreter is used.

12 (c) Simultaneous form of interpretation.--

13 (1) The interpretation provided by interpreters pursuant  
14 to this section shall be in the simultaneous mode for any  
15 party to a judicial proceeding instituted by the Commonwealth  
16 and in the consecutive mode for witnesses, except that the  
17 presiding judicial officer, sua sponte or on the motion of a  
18 party, may authorize a simultaneous or consecutive  
19 interpretation when such officer determines after a hearing  
20 on the record that such interpretation will aid in the  
21 efficient administration of justice.

22 (2) The presiding judicial officer on that officer's  
23 motion or on the motion of a party may order that special  
24 interpretation services as authorized in section 4406  
25 (relating to special interpretation services) be provided if  
26 that officer determines that the provision of those services  
27 will aid in the efficient administration of justice.

28 (d) Replacement of interpreter.--

29 (1) If an interpreter is unable to communicate  
30 effectively with a presiding judicial officer, the

1 Commonwealth attorney, a principal party in interest,  
2 including a defendant in a criminal case, or a witness, the  
3 presiding judicial officer shall dismiss the interpreter and  
4 obtain the services of another interpreter in accordance with  
5 this section.

6 (2) In a judicial proceeding instituted by the  
7 Commonwealth, if the presiding judicial officer does not  
8 appoint an interpreter, an individual requiring the services  
9 of an interpreter may seek assistance of the clerk of court  
10 or the Court Administrator in obtaining the assistance of a  
11 certified interpreter.

12 (e) Waiver.--The requirement for use of an interpreter may  
13 be waived as follows:

14 (1) A principal party in interest other than a witness  
15 who is entitled to interpretation under this chapter may  
16 waive the interpretation in whole or in part. Such a waiver  
17 shall be effective only if approved by the presiding judicial  
18 officer and made expressly by the principal party on the  
19 record after opportunity to consult with counsel and after  
20 the presiding judicial officer has explained to the principal  
21 party utilizing the services of the most available certified  
22 interpreter or when no certified interpreter is reasonably  
23 available, as determined by the presiding judicial officer,  
24 the services of an otherwise competent interpreter, the  
25 nature and effect of the waiver.

26 (2) An individual who waives under paragraph (1) the  
27 right to a certified interpreter may utilize the services of  
28 an otherwise qualified interpreter of that individual's  
29 choice whose fees, expenses and costs shall be paid in the  
30 manner provided for the payment of such fees, expenses and

1 costs of an interpreter as provided by the Court  
2 Administrator.

3 § 4406. Special interpretation services.

4 (a) General rule.--The Court Administrator may establish a  
5 program for the provision of special interpretation services in  
6 criminal actions and in civil actions initiated by the  
7 Commonwealth, including petitions for writs of habeas corpus  
8 initiated in the name of the Commonwealth by relators, in a  
9 court of this Commonwealth. The program shall provide a capacity  
10 for simultaneous interpretation services in multidefendant  
11 criminal actions and multidefendant civil actions.

12 (b) Reimbursement for services.--Upon the request of a  
13 person in an action for which special interpretation services  
14 established pursuant to subsection (a) are not otherwise  
15 provided, the Court Administrator with the approval of the  
16 presiding judicial officer may make such services available to  
17 the person requesting the services on a reimbursable basis at  
18 rates established, but the Court Administrator may require the  
19 prepayment of the estimated expenses of providing the services  
20 by the person requesting them.

21 (c) Source of funding.--

22 (1) Except as otherwise provided in this subsection, the  
23 expenses incident to providing services under subsection (a)  
24 shall be paid by the Court Administrator from sums  
25 appropriated. A presiding judicial officer in that officer's  
26 discretion may order that all or part of the expenses shall  
27 be apportioned between or among the parties or shall be taxed  
28 as costs in a civil action, and any moneys collected as a  
29 result of such order may be used to reimburse the  
30 appropriations obligated and disbursed in payment for those

1 services.

2 (2) Appropriations available to the Court Administrator  
3 shall be expended to provide services in accordance with  
4 subsection (b), and moneys collected by the Court  
5 Administrator under subsection (b) may be used to reimburse  
6 the appropriations charged for those services. A presiding  
7 judicial officer in that officer's discretion may order that  
8 all or part of the expenses shall be apportioned between or  
9 among the parties or shall be taxed as costs in the action.

10 § 4407. Funding.

11 (a) General rule.--The General Assembly shall appropriate to  
12 the Court Administrator such sums as may be necessary to  
13 establish a program to facilitate the use of interpreters and  
14 otherwise fulfill the provisions of this chapter except as  
15 provided in subsection (c). Implementation of the provisions of  
16 this section is contingent upon the availability of appropriated  
17 funds to carry out the purposes of this section.

18 (b) Expenses of government witnesses.--Such salaries, fees,  
19 expenses and costs that are incurred with respect to government  
20 witnesses, including for grand jury proceedings, shall, unless  
21 direction is made under subsection (c), be paid by the  
22 Commonwealth attorney from sums appropriated to the appropriate  
23 office.

24 (c) Interpretation services upon request.--Upon the request  
25 of a person in an action for which interpretation services are  
26 not otherwise provided, the clerk of the court or other court  
27 employee designated by the president judge, upon the request of  
28 the presiding judicial officer, shall, where possible, make  
29 those services available to that person on a cost-reimbursable  
30 basis, but the judicial officer may also require the prepayment

1 of the estimated expenses of providing such services.

2 (d) Examination fees.--

3 (1) If the Court Administrator finds it necessary to  
4 develop and administer criterion-referenced performance  
5 examinations for purposes of certification or other  
6 examinations for the selection of otherwise qualified  
7 interpreters, the Court Administrator may prescribe for each  
8 examination a uniform fee for applicants to take the  
9 examination.

10 (2) In determining the rate of the fee for each  
11 examination, the Court Administrator shall consider the fees  
12 charged by other organizations for examinations that are  
13 similar in scope or nature. The Court Administrator may  
14 provide in any contract or agreement for the development or  
15 administration of examinations and the collection of fees  
16 that the contractor may retain all or a portion of the fees  
17 in payment for the services.

18 (3) Any moneys collected under this subsection may be  
19 used to reimburse the appropriations expended for such  
20 services.

21 (e) Approval of compensation and expenses.--The presiding  
22 judicial officer shall approve the compensation and expenses  
23 payable to interpreters pursuant to a schedule of fees  
24 prescribed by the Court Administrator.

25 § 4408. Sign language interpreters.

26 (a) General rule.--Notwithstanding any other provision of  
27 this chapter, the presiding judicial officer may appoint a  
28 certified interpreter or otherwise qualified interpreter for  
29 sign language to provide services to a party, witness or other  
30 participant in a judicial proceeding, whether or not the

1 proceeding is instituted by the Commonwealth, if the presiding  
2 judicial officer determines, on that officer's own motion or on  
3 the motion of a principal party in interest, that the individual  
4 suffers from a hearing impairment.

5 (b) Approval of compensation and expenses.--The presiding  
6 judicial officer shall, subject to the availability of  
7 appropriated funds, approve the compensation and expenses  
8 payable to sign language interpreters appointed under this  
9 section in accordance with a schedule of fees prescribed by the  
10 Court Administrator.

11 Section 2. This act shall take effect in 60 days.