



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Labor

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

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State Capitol, Conference Room 016

by

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Bill No. and Title: House Bill No. 298, H.D. 1, Relating to Court Interpreters.

Purpose: Provides court interpreters whose presence is requested by the court the same exemption from prosecution for expired meter parking violations that is provided to other witnesses summoned or subpoenaed by the court.

Judiciary's Position:

The Hawai'i State Judiciary strongly supports this measure, which is part of the Judiciary's 2011 Legislative Package.

The Hawai'i State Courts use court interpreters to provide access to justice for limited English proficient (LEP) parties and witnesses and to facilitate the fair and efficient administration of justice. Under State and Federal language access laws, providing a court interpreter for an LEP defendant is, in some instances, a constitutional obligation, but in the very least a civil rights provision. Because court interpreters are at the call of the court, interpreters may receive parking tickets when they cannot leave the courtroom to deposit money into the parking meter. Court interpreters are subject to prosecution for parking violations that occur while the interpreter is providing language services to limited English proficient court customers at the request of the court.

Despite the important function court interpreters play in facilitating access to justice for parties and witnesses who do not speak English well, court interpreters are the only major group



which has not been granted statutory exemption from prosecution for parking violations that occur while the interpreters are providing services to the court.

HRS § 612-8 provides that “[a]ll jurors shall be exempt from any prosecution, penalty, or fine as a result of a parking violation committed in connection with the juror appearing at court for jury duty.”

Similarly, HRS § 621-8 provides that “[a]ll witnesses summoned or subpoenaed to appear in any circuit court, family court, or district court case shall be exempt from any prosecution, penalty, or fine as a result of a parking violation for an expired meter committed in connection with the witness appearing in court.” Under current law, court interpreters are considered “expert witnesses” under Rule 604 and 702 of the Hawai‘i Rules of Evidence. Since court interpreter services are requested by court staff and interpreters are not formally summoned or subpoenaed to appear in court, interpreters do not qualify for the existing exemption from parking violations afforded to expert witnesses under HRS § 621-8.

This measure would remove the unfair penalty of parking violations on court interpreters who are providing an important public service. It would provide court interpreters whose services are requested by the Hawai‘i State Courts with the same exemption from prosecution for parking violations that is currently provided to jurors and other witnesses summoned or subpoenaed by the Court.

The Judiciary has invested great administrative and financial resources into establishing a Court Interpreter Certification Program in 2007 to ensure that the most qualified available interpreters are provided to LEP court customers. Now in its fifth year, the Certification Program has successfully trained and screened 230 interpreters in 30 languages as court interpreters. This pool of interpreters, however, is far from sufficient to meet the Judiciary’s current language needs. In FY 2009, the Judiciary provided interpreters to LEP parties and witnesses in 7,872 cases at a total cost of \$435,857 – and these figures are increasing annually.

Court interpreters play an essential role in the administration of justice. The Hawai‘i State Courts use interpreters when a party or witness in a court case has LEP or is unable to hear, understand, speak, or use English sufficiently to effectively participate in court proceedings. Court interpreters help such persons gain equal access to justice and help court proceedings function efficiently and effectively.

Federal and state law mandates require the Judiciary to provide language access services to limited English proficient court customers. Court interpreters are the primary means by which the Judiciary meets these stringent mandates for LEP parties and witnesses. Court interpreters are retained on a contract basis to provide language services in specific cases or proceedings.



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Like jurors or witnesses, court interpreters are present at the request of the court to promote fair treatment in the administration of justice and facilitate access to justice for all court customers, regardless of their ability to speak, read, or understand English.

Court interpreting is a highly specialized profession, requiring a near-native fluency in both English and one or more non-English language(s). Bilingual speakers must also develop specialized oral interpreting and sight translation skills, an understanding of ethics and professional conduct, and knowledge of the courts and legal terminology in order to become a court interpreter. Because of these requirements, the pool of potential court interpreters is extremely limited. Hawaii's geographic isolation and insular makeup exacerbate this situation. Moreover, Hawaii's diverse population – immigrants comprise nearly 18% of its population and more than 124 different languages, from Arabic to Yapese, are spoken by its residents¹ – presents tremendous challenges for the Judiciary in meeting legal mandates to provide language access services for LEP court customers. Given these tremendous challenges, failure to provide parity with respect to the exemption from parking violations for court interpreters creates an unnecessary and unfortunate deterrent for qualified court interpreters who are already a commodity in short supply and high demand.

Failure to enact this measure will be a disincentive to recruitment and retention of qualified court interpreters and ultimately will affect ability of LEP court customers to meaningfully participate in the legal system and secure access to justice through language services required by federal and state laws.

Thank you for the opportunity to testify on House Bill No. 298, H.D. 1.

¹ U.S. Census Bureau, 2008 American Community Survey; Tbl. 13: Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over for Hawaii: 2006-2008 (April 2010).