

An act to amend Sections 71802 and 71810 of the Government Code,
relating to courts.

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 71802 of the Government Code is amended to read:

71802. (a) On and after July 1, 2003, trial courts shall appoint trial court employees, rather than independent contractors, to perform spoken language interpretation of trial court proceedings. An interpreter may be an employee of the trial court or an employee of another trial court on cross-assignment.

(b) Notwithstanding subdivision (a), a trial court may appoint an independent contractor to perform spoken language interpretation of trial court proceedings if one or more of the following circumstances exists:

(1) An interpreter who is not registered or certified is appointed on a temporary basis pursuant to Rule 984.2 of the California Rules of Court.

(2) The interpreter is over 60 years of age on January 1, 2003, or the sum of the interpreter's age in years on January 1, 2003, and the number of years the interpreter has provided services to the trial courts as an independent contractor prior to January 1, 2003, is equal to or greater than 70, the interpreter has provided services to the trial courts as an independent contractor prior to January 1, 2003, and the interpreter requests in writing prior to June 1, 2003, the opportunity to perform services for the trial court as an independent contractor rather than as an employee.

(3) The interpreter is paid directly by the parties to the proceeding.

(4) The interpreter has performed services for the trial courts as an independent contractor prior to January 1, 2003, the interpreter notifies the trial court in writing prior to June 1, 2003, that the interpreter is precluded from accepting employment because of the terms of an employment contract with a public agency or the terms of a public employee retirement program, the interpreter provides supporting documentation, and the interpreter requests in writing the opportunity to perform services for the trial court as an independent contractor rather than an employee.

(c) Notwithstanding subdivisions (a) and (b), and unless otherwise provided in a memorandum of understanding or agreement with a recognized employee organization, a trial court may also appoint an independent contractor on a day-to-day basis to perform spoken language interpretation of trial court proceedings if all of the following circumstances exist:

(1) The trial court has assigned all the available employees and independent contractors appointed pursuant to paragraphs (2) and (4) of subdivision (b) in the same language pair and has need for additional interpreters. Employees and independent contractors who are appointed pursuant to paragraphs (2) and (4) of subdivision (b) shall be given priority for assignments over independent contractors who are appointed pursuant to this subdivision.

(2) The interpreter has not previously been appointed as an independent contractor by the same trial court on more than ~~100~~ 50 court days or parts of court days during the same calendar year, except that the trial court may continue to appoint an independent contractor on a day-to-day basis to complete a single court proceeding, if the trial court determines that the use of the same interpreter to complete that proceeding is necessary to provide continuity. An interpreter who has been appointed by a trial court as an independent contractor pursuant to this subdivision on more than 45 court days or parts of court days during the same calendar year shall be entitled to apply for employment by that trial court as a ~~court interpreter pro tempore~~ full-time or part-time



trial court employee, and the trial court ~~may~~ shall not refuse to offer employment to the interpreter, except for cause. For purposes of this section, “for cause” means a fair and honest cause or reason regulated by good faith on the part of the party exercising the power.

(3) The trial court does not provide independent contractors appointed pursuant to this subdivision with lesser duties or more favorable working ~~conditions than those to which a court interpreter pro tempore employed by that trial court would be subject for the purpose of discouraging interpreters from applying for pro tempore employment with the trial court.~~ conditions, including pay, than those of interpreters who are trial court employees, unless there are special circumstances such as the need for languages services in languages of lesser diffusion. The trial court is not required to apply the employee training, disciplinary, supervisory, and evaluation procedures of the trial court to any independent contractor.

(d) Only registered and certified interpreters may be hired by a trial court as employees to perform spoken language interpretation of trial court proceedings. Interpreters who are not certified or registered may be assigned to provide services as independent contractors only when certified and registered interpreters are unavailable and the good cause and qualification procedures and guidelines adopted by the Judicial Council pursuant to subdivision (c) of Section 68561 have been followed.

(e) A trial court that has appointed independent contractors pursuant to paragraph (1) of subdivision (b) or to subdivision (c) for a language pair on more than 60 court days or parts of court days in the prior 180 days shall provide public notice that the court is accepting applications for the position of court interpreter pro tempore for that language pair and shall offer employment to qualified applicants.

(f) Unless the parties to the dispute agree upon other procedures after the dispute arises, or other procedures are provided in a memorandum of understanding or agreement with a recognized employee organization, disputes concerning a violation of this section shall be submitted for binding arbitration to the California State Mediation and Conciliation Service.

SEC. 2. Section 71810 of the Government Code is amended to read:

71810. (a) A court interpreter ~~pro tempore who is employed by~~ as a trial court employee may accept appointments to provide services to other trial courts.

(b) The Judicial Council shall adopt procedures to facilitate the efficient cross-assignment of court interpreters.

(c) Based on an assessment of interpreter use and current practices, trial courts may create new employee positions for court interpreters to perform spoken language interpretation for the trial courts in classifications other than court interpreter pro tempore. Some of these positions may include, as part of the duties of the position, the requirement that the interpreter accept cross-assignments, as defined in Section 71801, under procedures adopted by the Judicial Council, and some positions may make the acceptance of cross-assignments optional. Court interpreters pro tempore, and other interpreters who have not accepted employment in a position requiring the interpreter to accept cross-assignments, may not be disciplined for declining a cross-assignment.

(d) The impact of cross-assignments shall be included within the scope of representation as those matters affect wages, hours, and terms and conditions of employment of court interpreters. The regional court interpreter employment relations committee shall be required to meet and confer in good faith with respect to that impact.



(e) A court interpreter on cross-assignment shall be treated for purposes of compensation, employee benefits, seniority, and discipline and grievance procedures, as having performed the services in the trial court in which the interpreter is employed.

(f) Court interpreters on cross-assignment shall be reimbursed for mileage and other travel expenses at the same rates as other judicial branch employees.

(g) A trial court shall give priority to using a trial court employee from any other region by cross-assignment prior to hiring an independent contractor for providing spoken language interpretation. This section shall be implemented consistently with Section 71802.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: Court interpreters.

Existing law generally requires the trial court to appoint trial court employees, rather than independent contractors, to perform spoken language interpretation of trial court proceedings and authorizes an interpreter who is an employee of one trial court to work for another trial court on cross-assignment. Existing law authorizes a trial court to appoint an independent contractor to perform spoken language interpretation on a day-to-day basis if certain circumstances exist and pursuant to specified limitations, including, among others, that the trial court has not previously appointed the interpreter as an independent contractor on more than 100 court days or parts of court days during the same calendar year, except as provided. Existing law requires the trial court to allow an interpreter who has been appointed as an independent contractor on a day-to-day basis on more than 45 court days or parts of court days during the same calendar year to apply for employment by that trial court as a court interpreter pro tempore, and prohibits the trial court from refusing to offer employment to the interpreter, except for cause, as defined.

This bill would modify the limitations on a trial court for hiring an independent contractor to perform spoken language interpretation of trial court proceedings on a day-to-day basis, including lowering the maximum number of days the trial court may hire an independent contractor in the same calendar year to no more than 50 full or partial court days. The bill would specify that an independent contractor who is entitled to apply for employment due to being hired for more than 45 days may apply for full-time or part-time employment. The bill would require the trial court to give priority to using a trial court employee from any other region by cross-assignment prior to hiring an independent contractor for providing spoken language interpretation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

