

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Yee Analyst: Darrine Distefano Bill Number: AB 292

Related Bills: See Legislative History Telephone: 845-6458 Amended Date: June 2, 2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies Prohibited To Use Children As Interpreters

SUMMARY

This bill would prohibit a state agency from using children as interpreters, except in specific circumstances.

SUMMARY OF AMENDMENTS

The June 2, 2003, amendments changed the age of the child who can interpret for a parent from 18 to 15 years.

The April 22, 2003, amendments added several co-authors, deleted the term "translator," added an exception that children can interpret when inquiring about any public assistance program, and added a definition of "interpreter."

The March 24, 2003, amendments made technical changes and added the term "deaf" to describe persons that may also require interpreter services.

The March 17, 2003, amendments required an agency to have established procedures that prohibit the use of children as interpreters; required the State Personnel Board (SPB) to conduct investigations on state agencies to enforce the provisions of this bill; allowed a child to interpret under specific circumstances; and defined several terms.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's office, this bill would eliminate the use of children as interpreters when assisting a parent who is conducting business at a state agency. Using children as interpreters may result in information not being correctly translated, cause stress to a child, and place a child in an inappropriate situation.

EFFECTIVE/OPERATIVE DATE

This bill would be effective beginning on or after January 1, 2004.

Board Position:

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Department Director

Date

Gerald H. Goldberg

7/28/03

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

There are no federal or state laws that prohibit children from interpreting for a non-English-speaking person.

On August 11, 2000, the President of the United States issued Executive Order 13166 (EO 13166) entitled "Improving Access to Services for Persons With Limited English Proficiency (LEP)." The order requires each Federal agency to examine the services it provides to the public and implement a system by which LEP persons can access those services. The system that is implemented by each agency must be consistent with, but not unduly burden, the fundamental mission of the Federal agency.

The Department of Justice and Health and Human Services have developed guidelines under EO 13166 for Federal agencies to follow when providing services for LEP persons. The guidelines recognize that LEP persons may feel more comfortable when a trusted family member or friend interprets for them. However, under certain circumstances, family members (including children) and friends are not competent to provide quality and accurate interpretations. A Federal agency must offer competent interpretation services free of cost to the LEP person to provide assistance in any situation.

State law, initially enacted in 1973 (Dymally-Alatorre Bilingual Services Act), requires state agencies that are directly involved with supplying information or services to the public and that have contact with non-English-speaking people to employ bilingual personnel in public contact positions. In addition, the state agencies may utilize existing funds to contract for telephone-based interpretation services.

State agencies are required to conduct a survey of their local offices every two years and report the results to SPB. The survey requests various state agency information, including, but not limited to, the number of bilingual employees in public contact positions and the number of non-English-speaking people served by each local office.

In general and acute care hospitals, state law also requires interpreters or professional bilingual staff to be employed and procedures in place to assist non-English-speaking people. These procedures state that a person may choose a family member or friend to interpret for them after being informed of the availability of an interpreter.

THIS BILL

This bill would prohibit any state or local agency, public or private agency, organization, entity, or program from using children or permitting children to be used as interpreters.

This bill would revoke state funding for or cancel a state contract with a nongovernmental public or private agency, organization, entity, or program if a violation of this provision is found.

This bill would require SPB to conduct investigations and take reasonable actions to enforce the provisions of this bill for state agencies.

This bill would allow a child to interpret in the following situations:

- ❖ When assisting to determine a non-English-speaking person's primary language.
- ❖ When ensuring the receipt of language assistance.
- ❖ For routine or casual inquiries, such as office hours, directions, or other matters that do not involve the discussion of services of the business or function of the agency, organization, entity, or program.
- ❖ During emergency situations that affect the immediate life, safety, health, or welfare of an individual when no other alternatives exist. However, a competent interpreter must be provided as soon as possible.
- ❖ For inquiries at authorized retail food vendors concerning the receipt of benefits through the California Special Supplemental Food Program for Women, Infants, and Children, federal Food Stamp Program, or other similar public benefit programs.

This bill defines the following terms:

- ❖ "Child" is defined as a person under the age of 15 years.
- ❖ "Established procedure for providing competent interpretation" is defined as providing an in-person interpreter or bilingual staff member, or at a minimum, a telephone-based interpretation service or other resource that can be easily used by employees to communicate effectively with non-English-speaking or deaf persons. A state agency is required to include a description of these services to SPB.
- ❖ "Interpreter" is defined as a person who orally translates from one language to another.

IMPLEMENTATION CONSIDERATIONS

Franchise Tax Board (FTB) currently has numerous employees who are certified or possess some level of verbal competency in non-English languages. Presently if a department interpreter is not available, an appointment is made for the taxpayer to return to the district office or for a return call to be placed to the taxpayer at an agreed time. Therefore, a child would not be utilized as an interpreter for his or her parent when conducting business with FTB.

However to ensure the provisions of this bill are fulfilled, FTB would add procedures for employees located in the district offices, conducting audits at offsite locations, and in the telephone center to request age identification of a child who accompanies or calls for a non-English-speaking taxpayer. These procedures would not significantly impact the department's programs or operations.

LEGISLATIVE HISTORY

AB 763 (Shelley, 2001/2002) would have required various state agency information and materials on the Internet to be made available in a non-English language. This bill failed to pass out of the first house by January 31st of the second year of the two-year session.

AB 805 (Shelley, 2001/2002) would have required state agency websites to have a link to non-English information. This bill failed to pass out of the first house by January 31st of the second year of the two-year session.

SB 987 (Escutia, 2001/2002) would have made various changes to current laws regarding state agencies and bilingual services. The Governor, because of the implementation costs state agencies would have incurred and the limited funds available for the state at that time, vetoed this bill.

PROGRAM BACKGROUND

As directed under current law, FTB conducts a survey every two years and reports to SPB the number of non-English-speaking people served by the department. Currently, FTB has identified Spanish as the only non-English language comprising 5% or more of the people served.

OTHER STATES' INFORMATION

Research of *Arizona, Florida, New Mexico, and New York* laws did not find any information on the use of or prohibition of children as interpreters.

Research of *Texas* law found one agency that allows children to interpret for their non-English-speaking parent regardless of the situation.

These states were selected due to their similarities to California in population, diversity, and geographic location.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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