

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 1302

INTRODUCER: Judiciary Committee and Senator Torres

SUBJECT: Translation Services

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bond	Cibula	JU	Fav/CS
2.			CJ	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1302 authorizes, but does not require, a clerk of court to offer translation services to individuals interacting with the court system where such services are not already required by state or federal law.

The bill is effective October 1, 2023.

II. Present Situation:

Clerks of the Court

The State Constitution mandates that there be an elected clerk of the circuit court in each of Florida's 67 counties to serve as ex officio clerk of the board of county commissioners, auditor, official records recorder, and custodian of all county funds.¹ As an officer of the court, the clerk serves in a ministerial capacity, and his or her duties and authority are conferred entirely by law.²

¹ The clerk of the circuit court is elected by the county's electors to serve a four-year term. Art. V, s. 16 and Art. VIII, s. 1, Fla. Const.; Florida Department of State, *County Governments*, <https://dos.myflorida.com/library-archives/research/florida-information/government/local-resources/fl-counties/>.

² "Ministerial" means acting "in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as the propriety of the action taken." The clerk may appoint deputies, for whose acts the clerk is liable, which deputies have the same power as the clerk, excepting the power to appoint deputies. Ss. 28.06 and 112.312(17), F.S.

English Language in the Court System

Over 60 million people living in the United States over the age of 5 speak a language other than English at home.³ Of these, over 25 million speak English “less than very well.”⁴ In Florida alone, nearly 30 percent of the state’s population over the age of 5 speaks a language other than English at home.⁵

Court proceedings are conducted in the English language.⁶ Many individuals do not speak or understand the English language, and some disabled persons need an interpreter as required by the Americans with Disabilities Act.

The statutes provide that, when a judge determines that a witness cannot hear or understand the English language, or cannot express himself or herself in English sufficiently to be understood, an interpreter who is qualified to interpret for the witness shall be sworn to do so.⁷ The statute is silent as to payment of the cost of the interpreter.

Court rules provide that, in any criminal or juvenile delinquency proceeding in which the accused, the parent or legal guardian of the accused juvenile, the victim, or the alleged victim cannot understand or has limited understanding of English, or cannot express himself or herself in English sufficiently to be understood, an interpreter must be appointed.⁸

In all other proceedings in which a non-English-speaking or limited-English-proficient person is a litigant, an interpreter for the non-English-speaking or limited English-proficient litigant must be appointed if the court determines that the litigant’s inability to comprehend English deprives the litigant of an understanding of the court proceedings, that a fundamental interest is at stake (such as in a civil commitment, termination of parental rights, paternity, or dependency proceeding), and that no alternative to the appointment of an interpreter exists.⁹

There are numerous types of civil cases and legal matters that do not require the appointment of an interpreter.

III. Effect of Proposed Changes:

The bill adds translation services to the list of court-related functions that a clerk of court may fund from filing fees, service charges, court costs, and fines collected by the clerk.

The bill allows a clerk of the court to contract with a third-party translation service provider for civil cases, regardless of whether the person is indigent or represented by an attorney. The

³ U.S. Census Bureau, *Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over for United States: 2009-2013*, <https://www.census.gov/data/tables/2013/demo/2009-2013-lang-tables.html>.

⁴ *Id.*

⁵ U.S. Census Bureau, *Quick Facts: Florida*, <https://www.census.gov/quickfacts/fact/table/FL/POP815221> (last visited March 27, 2023).

⁶ FLA.CONST. article II, s. 9.

⁷ Section 90.606(1)(a), F.S.

⁸ Fla. R. Gen. Prac. & Jud. Admin. 2.560(a).

⁹ Fla. R. Gen. Prac. & Jud. Admin. 2.560(b).

service is ministerial only, the interpreter may not furnish legal advice. The bill does not prohibit or limit a party from providing his or her own translation service.

The bill is clear that a clerk is not required by the bill to provide translation services.

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 28.35 and 28.215.
This bill creates section 28.217 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on April 4, 2023:

The CS added a clause to make clear that a clerk is not required by the bill to provide translation services.

- B. **Amendments:**

None.